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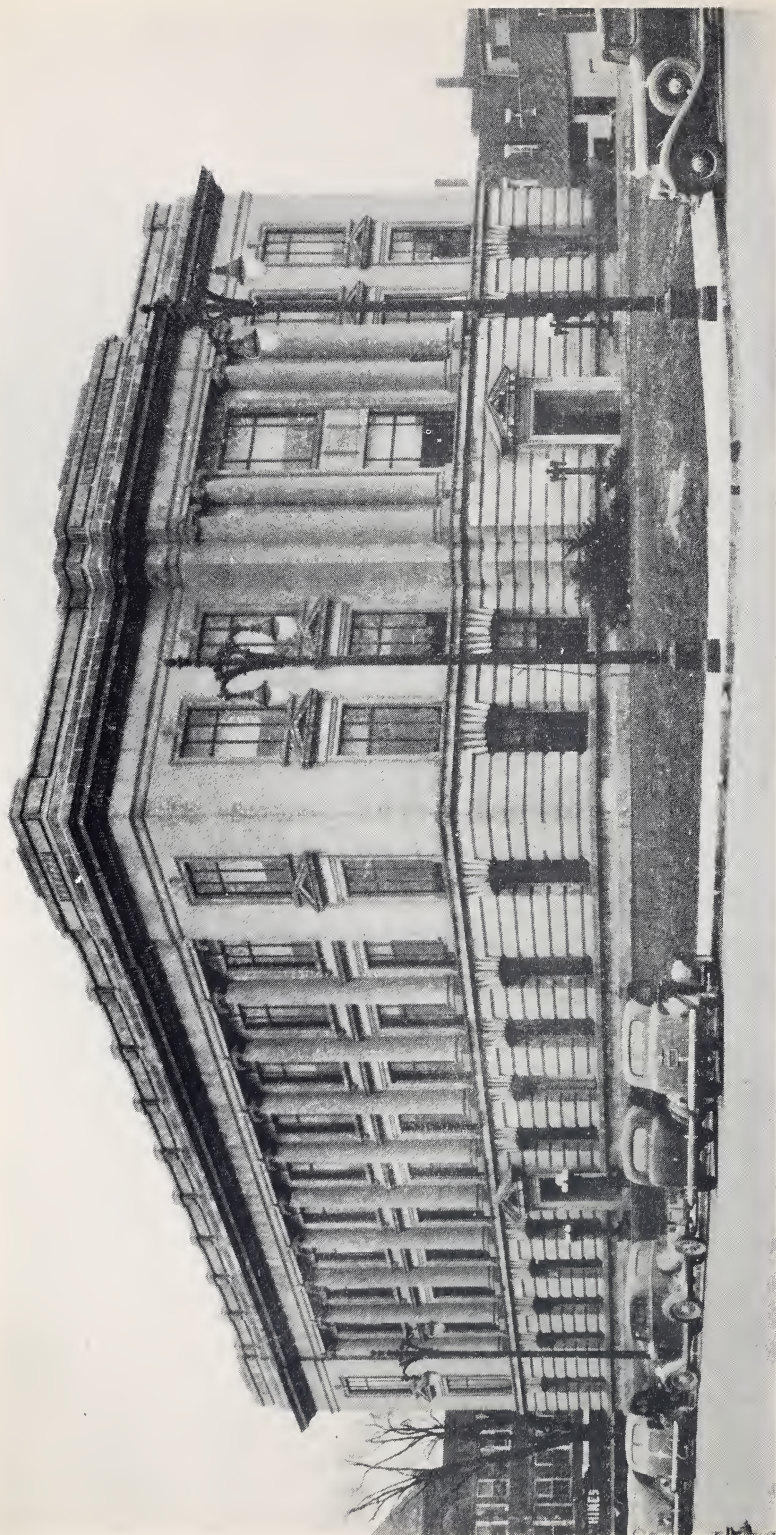
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HISTORICAL RECORDS SURVEY.
INDIANA.
INVENTORY OF THE COUNTY
ARCHIVES OF INDIANA

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JAY COUNTY COURTHOUSE, PORTLAND, INDIANA.

INVENTORY OF THE COUNTY ARCHIVES
OF INDIANA

Prepared by

The Indiana Historical Records Survey *Indiana*
Division of Professional and Service Projects
Work Projects Administration

Sponsored by
Indiana Historical Bureau

No. 38. JAY COUNTY
(PORTLAND)

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no. 38

The Indiana Historical Records Survey
Indianapolis
1940

THE HISTORICAL RECORDS SURVEY PROGRAM

Sargent B. Child, Director

George W. Hubley, Jr., Regional Supervisor

Roger A. Hurst, State Supervisor

RESEARCH AND RECORDS SECTION

Harvey E. Becknell, Director

George W. Hubley, Jr., Regional Supervisor

John D. Stuckey, State Chief

DIVISION OF PROFESSIONAL AND SERVICE PROJECTS

Florence Kerr, Assistant Commissioner

Mary G. Moon, Chief Regional Supervisor

Mildred E. Schmitt, State Director

WORK PROJECTS ADMINISTRATION

Howard O. Hunter, Acting Commissioner

George H. Field, Regional Director

John K. Jennings, State Administrator

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FOREWORD

The *Inventory of the County Archives of Indiana* is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Jay County, is number 38 of the Indiana series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Program attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The Survey Program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child, who had been National Field Supervisor since the inauguration of the Survey. The Survey Program operates as a Nation-wide series of locally sponsored projects in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER

Acting Commissioner

PREFACE

The Historical Records Survey, one of the Division of Professional and Service Projects of the Work Projects Administration, was organized in January 1936 with Dr. Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project. Samuel J. Kagan was assigned to direct public records work, and was named State Director of the Survey in September 1936 when it became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a state project under the sponsorship of the Indiana Historical Bureau. Roger A. Hurst was appointed State Supervisor of the Survey in January 1940 and Canis E. Brockway continued as Assistant State Supervisor. Dr. Evans was succeeded as National Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semipublic nature. Inventories of the records of counties, cities, towns and churches, and guides to manuscript depositories and collections are or will be published. The Survey also transcribes certain early county records as a measure of preservation.

The Inventory of the County Archives of Indiana will consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Jay County volume is number 38. The field work of the Survey in Jay County was begun March 24, 1936 and completed April 25, 1936. Many field trips have been made since to check information used in this book and the final recheck was made in November 1939.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement, indexing,

nature of recording, size, and location. The various bureaus of the county are arranged in functional order: Governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable, natural groupings under separate headings are made within each bureau.

Field work for this volume was submitted to a state editorial staff directed by Frank E. Ross. Staff department heads were: Marshall Cowgill, record entries; W. Davis Hamilton, legal research; Howard Oates, proofreading and indexing; Dr. J. Harley Nichols, historical sketch and housing essay; and Fred S. Knodle, cartography. This volume was multigraphed by WPA labor directed by William Deupree.

The Survey is deeply indebted to many Jay County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director, Professional and Service Projects Division, who has rendered the Survey important service in administrative matters; to John D. Stuckey, Chief, Research and Records Section; and to many others who contributed time and effort. The Indiana staff received valuable advice and criticism from the National Office of the Survey.

Five hundred copies of this book have been published and many have been distributed to libraries, universities, government offices, and other depositories over the state and the nation. Copies will also be available in Jay County for persons, offices, or institutions having occasion to use county records or to study local government.

ROGER A. HURST

State Supervisor

The Indiana Historical Records Survey

Indianapolis, Indiana

July 1940

JAY COUNTY OFFICIALS

1941

TREASURER

James Esta Taylor

RECORDER

Gera D. Emrick

AUDITOR

John L. LeMaster

JUDGE OF THE CIRCUIT COURT

Byron G. Jenkins

REGISTRATION OFFICER

Ernest L. Steed

SHERIFF

Clyde Kegerreis

PROSECUTING ATTORNEY

Wayne W. Hinkle

CORONER

Dr. Donald E. Spahr

COUNTY ASSESSOR

Ira Lawson

CLERK OF THE CIRCUIT COURT

Ernest L. Steed

COUNTY HIGHWAY SUPERVISOR

Earl F. Alberson

PUBLIC HEALTH NURSE

Clara G. Fuller

COUNTY AGRICULTURAL AGENT

C. A. Langston

BOARD OF PRIMARY ELECTION COM- MISSIONERS

John Armstrong

C. Omer Rowland

Ernest L. Steed

SURVEYOR

William T. Corwin

COMMISSION OF PUBLIC RECORDS

*Composed of the judge and clerk of the
circuit court, the president of the board
of commissioners, and the auditor*

COUNTY BOARD OF EDUCATION

*Composed of the county superintendent of
schools, the township trustees, and the
chairmen of municipal school boards*

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C. Omer Rowland

Ernest L. Steed

COUNTY BOARD OF REVIEW

Joseph Gaunt

Ira Lawson

Myrtle LeFavour

John L. LeMaster

James Esta Taylor

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Chas. E. Schwartz
Geo. H. Smith
Geo. Kistler
Mayor J. L. Hammitt
Harry L. Nixon
Lee Stephen

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Ralph Younts, Director

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Walter Learned
William A. Witt

BOARD OF COMMISSIONERS

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L. E. Hiatt
F. B. Jones
Henry Oehler
Oliver Orr
P. A. Reinhart
P. W. Spade
Lee Stephen
Fred Syford
James J. Wallace

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Charles H. Kile
John L. LeMaster
James Esta Taylor

COUNTY SUPERINTENDENT OF SCHOOLS

L. L. Steed

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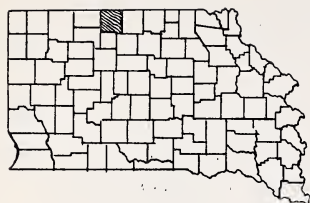
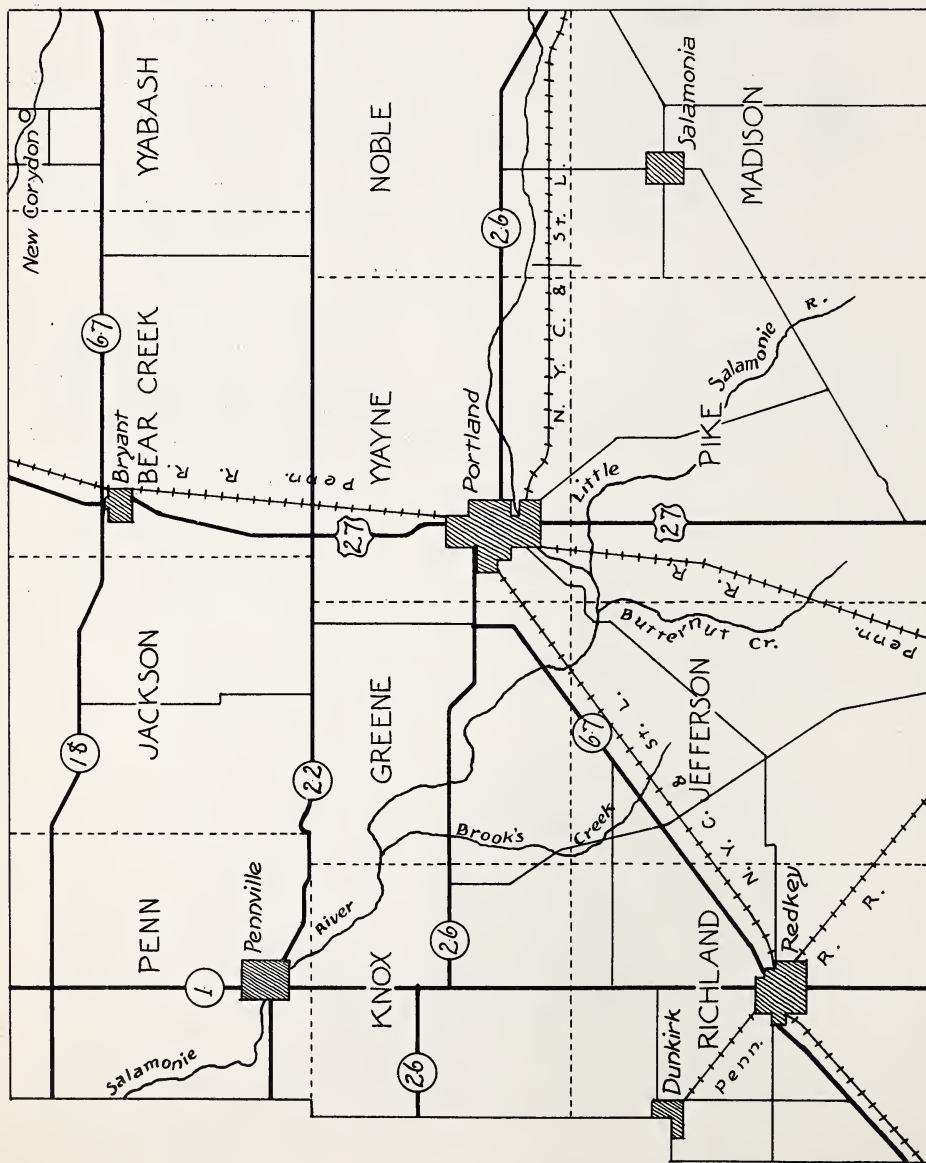
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Scale of Miles

MAP OF JAY COUNTY

PART A. JAY COUNTY AND ITS RECORDS SYSTEM

1. HISTORICAL SKETCH

Jay County is located in the extreme eastern tier of Indiana counties, nearer the northern than the southern end of the state. By counties it is bounded on the north by Adams and Wells, on the west by Blackford and Delaware, on the south by Randolph, all of Indiana, and on the east by Darke and Mercer of Ohio. It is rectangular in shape, save for two offsets on the west side. Its east and west dimension at the north end is 21 miles and at the south end, 22 miles. Its north and south dimension is 18 miles. Its area is 375 square miles or 239,000 acres.¹ It was named for John Jay, first Chief Justice of the United States Supreme Court.

NATURAL SETTING

The surface of the county is for the greater part level or gently undulating. This is because of the action of glaciers that at one time covered the county. With resistless power they cut down hills and filled up valleys and upon receding left glacial deposits which in some places exceeds 200 feet in depth. At only two points, about 2 miles south of Portland and in the northeast part of the county near Jay City, are there outcrops of limestone. Irregularities of surface elsewhere in the county are due to glacial moraines and erosion resulting from stream action.²

Moraines divide the county into three drainage belts. The southern part is drained by tributaries of the Mississinewa River, which flows across the northern part of Randolph County roughly parallel to the Randolph-Jay boundary

¹ *Year Book of the State of Indiana for the Year 1937*, (Fort Wayne, Indiana, 1937), 881. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (Indianapolis, Indiana, 1933), 484-487.

² *Indiana, Annual Report of the Department of Geology and Natural Resources, 1914* (Indianapolis, Indiana, 1915), 57-59 (series hereinafter cited as *Indiana Geological Report*).

and, turning to the northwest, enters the Wabash River near Peru. The Salamonie River, also a tributary of the Wabash, rises in the southeastern part of the county, flows in a northwesterly direction, and leaves the county on the west side about 4 miles from the northwest corner. Its principal tributary in Jay County is Brook's Creek, which enters it from the south at Pennville. The Wabash River crosses the extreme northeastern part of the county. It receives Bear Creek from Jay County at Geneva in Adams County.

The average annual temperature of the county is about 51° Fahrenheit, varying from an average of about 27° in January to about an average of 73° for July. The average annual precipitation is about 40 inches. Over a period of 9 years the growing season averaged 150 days.³

EARLY INDIANA

Before the coming of the white men to Indiana, a copper colored people whom the white men referred to as Indians roamed the forests and paddled their canoes on the streams. The Indian tribes subsisted mostly by hunting and fishing, but in addition practiced a rudimentary form of agriculture.

The tribe most intimately identified with Indiana was the Miami, whose territorial claims as laid down by their chief, Little Turtle, during the process of treaty making at Greenville, Ohio, in 1795, embraced the entire state.⁴ Either from unwillingness or inability to enforce their claims they permitted other tribes to live within or frequent the state. Among these were the Delaware and Potawatomi. About 1770 the former were granted permission by the Miami to occupy the region between the Ohio and White rivers.⁵ As early as 1800 the Potawatomi occupied territory in northern Indiana as far south as the Wabash.⁶

The first white people to come to Indiana were the French. In the latter part of the 17th century they made voyages of discovery and exploration from Canada into the Ohio Country, as the area north of the Ohio River came to be

³ *Ibid.*, 72.

⁴ *American State Papers, Indian Affairs* (Washington, D. C., 1832), 1:570, 571.

⁵ F. W. Hodge, editor, *Handbook of American Indians North of Mexico* (Washington, D. C., 1912), 1:385.

⁶ *Ibid.*, 2:290.

called. These visits were followed by trading and missionary activity among the natives of the region. In the first half of the 18th century three French trading posts were established in what is now Indiana: Post Miami, on the present site of Fort Wayne, about 1715; Ouiatenon, on the Wabash, near the present site of Lafayette, about 1719 or 1720; and Vincennes, on the lower Wabash, sometime before March 1733.⁷

Early in the 18th century the English began to enter the Ohio Valley from the east. The conflicting claims of the two nations led to the French and Indian War, as a result of which France lost her colonial empire in America. During the American Revolution, George Rogers Clark conquered the Ohio Country and in 1778 Virginia organized it as the "County of Illinois."⁸ At the close of the Revolution, Virginia, New York, Connecticut, and Massachusetts, who laid claim to the region in whole or in part, ceded their claims to the United States, and in 1787 Congress organized the area as the Northwest Territory.⁹ From this region five states and a part of a sixth were subsequently created. Indiana Territory, embracing all the area between the present State of Ohio and the Mississippi River, except a small portion of the present State of Michigan and that portion of southeastern Indiana known as "the gore," was organized in 1800.¹⁰ In 1816 Indiana, with its present boundaries, was organized and admitted into the Union as a State.¹¹

The Indian titles to lands in Indiana were extinguished as a result of 54 separate cessions extending from the treaty of Greenville in 1795 to 1872, when the last reserve was abolished.¹² By treaty in 1809 with the Delaware, Potawatomi

⁷ Oscar J. Craig, "Ouiatenon", *Indiana Historical Society Publications* (Indianapolis, Indiana, 1893), vol. 2, no. 2. P. G. Roy, "Sieur de Vincennes Identified," *Indiana Historical Society Publications*, vol. 7, no. 1. M. M. Quaife, "Fort Wayne in 1790," *Indiana Historical Society Publications*, vol. 7, no. 7. P. C. Phillips, "Vincennes in its Relation to French Colonial Policy," *Indiana Magazine of History*, December 1921 (Bloomington, Indiana, 1921).

⁸ Adam Shortt and A. G. Doughty, *Documents Relating to the Constitutional History of Canada, 1759-1791* (Ottawa, Ontario, 1907). W. W. Hening, *The Statutes at Large . . . of Virginia* (Richmond, Va., 1821), 9:552.

⁹ Clarence E. Carter, editor, *The Territorial Papers of the United States* (Washington, D. C., 1934), 1:39-50.

¹⁰ *Annals of Congress*, 6th Congress, 1st Session (Washington, D. C. 1834-56), 1498.

¹¹ For the enabling act see *ibid.*, 14th Congress, 1st session, 1841; for the resolution admitting Indiana to the Union see *ibid.*, 14th Congress, 2d Session, 1348.

¹² For a complete list of the cessions, together with a map showing their locations see

and Miami tribes, the title to that portion of Jay County south and east of a line from Fort Recovery, Ohio through Ridgeville (in Randolph County) was effected.¹³ By treaties with the Delaware and Miami at St. Mary's, Ohio, in 1818, the greater part of the remainder of the county was obtained as a part of the New Purchase, a large tract of land in central Indiana from which portions of 37 counties were formed.¹⁴ By treaty of October 23, 1834 a tract of land 2 miles square "on the river Salamonie at the mouth of Atchepanguawe [Butternut Creek]," reserved to the Miami by the treaty of St. Mary's, was ceded to the United States.¹⁵ The Godfrey reserve, likewise reserved by the treaty of St. Mary's, apparently passed to white ownership by private arrangement.

The cession of lands to the United States created a great deal of dissatisfaction among the Indians, especially the Shawnee, who, under the leadership of Tecumseh and the Prophet, maintained that no tribe had a right to alienate Indian land without the consent of all. As a result of the battle of Tippecanoe in November 1811, the attempt of Tecumseh to organize an Indian confederacy to resist further encroachment by the whites on Indian lands collapsed.

WHITE SETTLEMENT

The first settlement made within the county was made by Peter Studabaker and his wife Mary, who settled on the south bank of the Wabash, near the present site of New Corydon, in 1821.¹⁶ On September 29, 1822 a son was born to them, whom they named Abraham. This was the first white child born in Jay County.¹⁷ In 1823 John Brooks and his wife Mary came to the county and settled on the creek which

William Henry Smith, *History of the State of Indiana* (Indianapolis, Indiana, 1903), 1:181-186. For the text of the treaties see "Treaties between the U. S. and the Indian Tribes," *The Statutes at Large of the United States of America* (Boston, Mass. and Washington, D. C., 1845-), 7:49 *et seq.* (series hereinafter cited as *U. S. Statutes at Large*); and Charles J. Kappler, *Indian Affairs. Laws and Treaties*, published as *U. S. Senate Document No. 452*, 57th Congress, 1st Session (Washington, D. C., 1904), 2:30 *et seq.*

¹³ *American State Papers, Indian Affairs*, 1:761.

¹⁴ *U. S. Statutes at Large*, 8:188-192. James A. Woodburn, "The New Purchase," *Indiana Historical Society Publications*, 6:43, 44.

¹⁵ *American State Papers, Indian Affairs*, 2:316.

¹⁶ M. W. Montgomery, *History of Jay County, Indiana* (Chicago, Illinois, 1864), 14, 15.

¹⁷ *Ibid.*, 21.

bears their name.¹⁸ About 1826 Orman Perring came to the county, and John J. Hawkins and George Tucker arrived in 1829.¹⁹

The earliest settlers of the county were squatters; that is, they settled on the land without first taking steps to acquire its ownership. The lands contained in what is now Jay County were surveyed by James Worthington and nine assistants during the winter of 1821-22.²⁰ By act of March 3, 1819 Congress had established a land office at Brookville. The area which later became Jay County was a part of the district assigned to this office.²¹ Not until 1832 was there land entered in the county, the first entry being made by James Stone on November 9 of that year and the second entry by Thomas Scott on the day following.²² By the close of 1835, 64 farms had been entered in the county.²³ In 1836 there were 563 entries made and 888 in 1837.²⁴

By 1840 there were 3,863 persons in the county.²⁵ In 1850 there were 7,704 people, distributed by townships as follows: Bear Creek, 737; Greene, 362; Jackson, 575; Jefferson, 717; Knox, 271; Madison, 645; Noble, 745; Penn, 810; Pike, 786; Richland, 349; Wabash, 345; Wayne, 705.²⁶

An act of Congress of April 24, 1820 provided for the sale of public land in 80-acre tracts at a minimum price of \$1.25 per acre. By the same act the credit system of payment for land provided by an earlier act was abolished.²⁷

CREATION AND ORGANIZATION

Jay County was created by an act of the Indiana General Assembly of February 7, 1835, and organized by a law of January 30 of the following year, effective March 1. The act creating the county defined the boundaries as follows: "Be-

¹⁸ *Ibid.*, 26-28.

¹⁹ *Ibid.*, 45, 46.

²⁰ *Ibid.*, 20.

²¹ *U. S. Statutes at Large*, 3:521, 522.

²² Montgomery, *op. cit.*, 75, 76.

²³ *Ibid.*, 114-117.

²⁴ *Ibid.*, 127.

²⁵ *Compendium of the Enumeration of the Inhabitants and Statistics of the United States, as Obtained . . . from the Returns of the Sixth Census: 1840* (Washington, D. C., 1841).

²⁶ *Seventh Census of the United States: 1850* (Washington, D. C., 1853), 766.

²⁷ *U. S. Statutes at Large*, 3:566, 567.

ginning at the southeast corner of Adams county, thence west to the eastern boundary of Grant county, thence south to the northern boundary of Delaware county, thence east with the northern boundary of said county, to the northeast corner of the same, thence south to the northwest corner of Randolph county, thence east with the northern boundary of said county to the state line, thence north to the place of beginning."²⁸

By an act of the Indiana legislature of February 15, 1838 creating Blackford County, that part of Jay County (as originally constituted) included within the following boundaries, was transferred to the new county: "Beginning at the north-east [west] of section number five in township number twenty-four, range number twelve east; thence west on the south boundary of Wells county, to the east boundary of Grant county; thence south with the eastern boundary of said county, to the northern boundary of Delaware county; thence east to the northeast corner of section eight, township twenty-two, range twelve east; thence north on the nearest section line, to the place of beginning."²⁹ A law of February 20, 1840 provided that "all that district of county which was included within the boundaries of Jay County, before the formation of the county of Blackford, be, and the same is hereby declared to be within the county of Jay, except so much as is included within the county of Blackford."³⁰

By the act organizing the county, Judge Jeremiah Smith and Judge Zachariah Pucket of Randolph County, Jacob Thornburg of Henry County, Nathan Coleman of Allen County, and Philip Moore of Delaware County were constituted a committee to select the site for the seat of justice of the new county.³¹ The commissioners met at the home of Henry H. Cuppy on the 1st Monday in June 1836, and after due deliberation selected the present site of Portland for the location of the county seat. In consideration of its selection Henry H. Cuppy donated to the county 80 acres of land on which the site was located, reserving one-half the lots around the courthouse square and one-third of all others. James Athaway donated an adjoining 10 acres.³² On December 5, 1836 it was ordered

²⁸ *The Laws of the State of Indiana, 1834-35 (general)*, ch. 25, sec. 3 (series hereinafter cited as Acts). Acts 1835-36 (general), ch. 14.

²⁹ Acts 1837-38 (local), ch. 97, sec. 1.

³⁰ Acts 1839-40 (general), ch. 60.

³¹ Acts 1835-36 (general), ch. 15, sec. 2.

³² Tract Book, 1832-1849, pp. 55, 56, *see* entry 70. Deed Record, A:5, 6, 15, 16, *see* entry 60. Milton T. Jay, *History of Jay County, Indiana* (Indianapolis, Indiana, 1922), 1:171.

by the board of commissioners "that the County seat of Jay County be designated and known by the name of Portland."³³ By an act of the Indiana legislature of January 25, 1843 Portland was incorporated as a town.³⁴ In 1883 it was incorporated as a city.³⁵

At an election held in August 1836 the following county officers were elected: Commissioners—John Pingry, Abraham Lotz, and Benjamin Goldsmith; associate judges—James Graves and Enoch Bowden; clerk—Christopher Hanna; sheriff—Henderson Graves.³⁶

At the first regular meeting of the board of commissioners, held at the home of Henry H. Cuppy on November 8, 1836, Henry H. Cuppy was appointed county treasurer, Lewis S. Farber, assessor, and Jacob Bosworth, county agent.³⁷ At a special term of the board of commissioners, begun on December 5, 1836, Benjamin W. Hawkins replaced Bosworth as county agent, the latter being declared ineligible for the office.³⁸ As the name signifies, the incumbent of this office acted as agent of the county and as such supervised the sale of town lots and other county business of a similar nature.

The first term of the circuit court was held on April 17, 1837, at the home of Henry H. Cuppy. Judge Charles W. Ewing of Fort Wayne, of the Eighth Judicial Circuit, presided, with Enoch Bowden as associate judge. About the only business was the trying of Henry H. Cuppy, foreman of the jury, and Daniel W. McNeal for an affray. Both were found guilty and fined.³⁹

The history of townships in Jay County dates from August 1820, when the Board of Commissioners of Randolph County, of which Jay County formerly was a part, created a township out of its attached northern territory which extended to the St. Mary's River.⁴⁰ On September 1, 1834 the Board of Commissioners of Randolph County created Salamonina Township, embracing all of what is now Jay and Blackford counties and the southern part of the present Adams County, and

³³ Commissioners' Record, A:3, *see* entry 2.

³⁴ Acts 1842-43 (local), ch. 9.

³⁵ Jay, *op. cit.*, 1:173.

³⁶ Montgomery, *op. cit.*, 128.

³⁷ Commissioners' Record, A:1.

³⁸ *Ibid.*, A:3.

³⁹ Jay Circuit Court, Order Book, A:1 *et seq.*, *see* entry 109.

⁴⁰ E. Tucker, *History of Randolph County, Indiana* (Chicago, Illinois, 1882), 60.

in May 1835 Madison was created, embracing a strip 5 miles wide on the east side of the present Jay County.⁴¹ In November 1836 Penn and Bear Creek townships were created by the Jay County Board of Commissioners.⁴² In September 1837 Wayne, Noble, Wabash, Pike, and Jefferson townships were created.⁴³ In March 1838 Jackson Township was created, and in May of the same year, Richland and Greene.⁴⁴ In March 1839 the name of Salamonina Township was changed to Knox.⁴⁵

EARLY COUNTY FINANCE

The early government of Jay County was simple and the burden of maintaining it correspondingly light. Initial costs were probably met by funds derived from the sale of lots in Portland. By May 1, 1837 lots had been sold to the value of \$573.50. Of this amount one-fourth or \$143.37½ was due at once and was paid into the treasury.⁴⁶

Two days later the board of commissioners "ordered that there be assessed one Dollar and Twenty five cents on every One Hundred Dollars valuation of all property subject to taxation in Jay County for County purposes and one cent on every one Hundred Dollars for Road purposes for the year 1837 and Seventy five cents on all the taxable Polls in said County for County purposes."⁴⁷ The treasurer's report presented to the board at the September session indicated that \$411.82 had been paid into the treasury and that the whole of this sum had been paid out.⁴⁸

To operate certain businesses, licenses were required. This afforded a revenue and at the same time made it possible to subject the business to a certain amount of regulation. At its first session the board of commissioners ordered that Henry H. Cuppy and Company pay \$10 for a license to retail merchandise in the county for a term of 1 year.⁴⁹ In September 1837 John Gillispie was granted a license to keep a ferry at the point where the Quaker Trace crossed the Wabash

⁴¹ *Ibid.*, 61.

⁴² Commissioners' Record, A:1, 2.

⁴³ *Ibid.*, 24, 26, 28.

⁴⁴ *Ibid.*, 48, 51, 59.

⁴⁵ *Ibid.*, 97.

⁴⁶ *Ibid.*, 11.

⁴⁷ *Ibid.*, 18.

⁴⁸ *Ibid.*, 24.

⁴⁹ *Ibid.*, 1.

River.⁵⁰ At the same session the board ordered that Hawkins C. Fouts pay \$15 for a license to keep a tavern and retail spirits at his home for the term of 1 year.⁵¹ In March 1846 the board was petitioned that it grant no more licenses to retail spiritous liquors within the limits of Portland for a period of 1 year.⁵² It was no doubt for the purpose of improving the breed of horses that permits were required to stand stallions. For this privilege Richard Scott paid \$2 into the county treasury in May 1837.⁵³

TRANSPORTATION

Prior to the coming of white men there were no roads in Jay County other than trails and traces required for and made by the movement of Indians and animals. In the absence of roads the streams were utilized for transportation and travel. As an aid to road building in the state, Congress had provided in an act which enabled the people of Indiana to form a constitution and state government, that 5 per cent of the proceeds of the sale of public lands within the state be reserved for the building of roads and canals. Of this sum three-fifths was to be given to the state for the building of roads and canals within the state and two-fifths was reserved by the United States to be applied on roads and canals leading to the state.⁵⁴ An act of the Indiana legislature of January 1, 1817 made every male person 18 years of age and under 50 liable to work on roads and public highways for a period not to exceed 6 days in any 1 year.⁵⁵ The first road to be opened in the county was a road leading from Richmond to Fort Wayne begun in 1817. Because of the large number of Quakers who traveled the road it became known as the Quaker Trace. It crossed the southern boundary of the county near Salem, 2 miles from the Ohio line and leading in a general northerly direction crossed the Wabash near New Corydon.⁵⁶

⁵⁰ *Ibid.*, 22.

⁵¹ *Ibid.*, 23.

⁵² *Ibid.*, 45.

⁵³ *Ibid.*, 12.

⁵⁴ *Annals of Congress*, 14th Congress, 1st Session, 1841.

⁵⁵ Acts 1816-17, ch. 8, sec. 10.

⁵⁶ J. W. Fiers, "School History of Jay County," ch. 5, in the *Portland Commercial Review*,

With the organization of the county the work of road building progressed rapidly as indicated by numerous items in the Commissioners' Record. The first mention of a county road in the Record is made under date of January 2, 1837, when the board ordered that Henderson Graves, Abraham Lotz, and John Eblin be appointed to view and lay out a county road from Portland to the Ninety Mile Tree, near Fort Recovery.⁵⁷

On March 7, 1837 the commission reported favorably and the board ordered that the road be opened 25 feet wide and that it be kept in repair as a public road.⁵⁸ Some idea of the labor involved in the building of roads in the county is obtained from an entry of March 7, 1837 in the Commissioners' Record ordering the commissioner of the 3 percent fund to "cut the Huntington road twenty-five feet wide and throw the timber on the west side and cut all the timber of the size of 18 inches and under that size and that he clear off all the fallen timber..."⁵⁹

Early roads in the county were little more than bridle paths or at best wagon ways from which the timber had been removed. Such roads were usually impassable in wet weather. To give them a hard surface small timbers were placed cross-wise the road and the intervening spaces filled with dirt. Such roads were known as corduroy roads and, as their name indicates, they were rough. Plank roads were an improvement in this respect but the expense involved in their building and upkeep made them prohibitive except for the most highly traveled roads. Several acts were passed by the Indiana legislature incorporating companies for the construction of roads of this type in the county but few of them seem to have been built. Sometime prior to 1850 a plank road was built from Camden, Indiana (now Pennville) to Fort Wayne.⁶⁰

The first gravel road in the county was constructed in 1875 by a company of which Jonas Votaw was president. In 1885 the county had 165 miles of roads of this type.⁶¹ In 1904 there were 800 miles of roads in the county, of which 265 were surfaced with gravel and 35 surfaced with stone.⁶²

⁵⁷ Commissioners' Record, A:4.

⁵⁸ *Ibid.*, 8.

⁵⁹ *Ibid.*, 8, 9.

⁶⁰ *Biographical and Historical Record of Jay and Blackford Counties, Indiana* (Chicago, Illinois,

1887), 235.

⁶¹ *Ibid.*, 236.

⁶² "Public Roads of Indiana: Mileage and Expenditure in 1904," *U. S. Department of Agriculture, Office of Public Roads, Circular No. 66* (Washington, D. C., 1905), 3.

The first railroad in Jay County was the Union City and Logansport which crossed the southwest corner of the county, passing through Redkey and Dunkirk. It operated its first train in the county on October 10, 1867. Prior to this time several railroads through the county had been proposed and on some of them work was begun but for one reason or another they were not completed. In 1871 the Union City and Logansport Railroad was reorganized as the Columbus and Indiana and a short time later was purchased by the Pennsylvania. In 1871 the Cincinnati, Richmond and Fort Wayne Railroad was completed through Portland. The next year it was merged with the Grand Rapids and Indiana Railroad. Sometime later it too became a part of the Pennsylvania system. The third railroad of the county, the Sandusky and Indianapolis, operated its first train to Portland on Thanksgiving Day, 1879. Later it became known as the Lake Erie and Western.⁶³ At the present time it is a part of the Nickel Plate lines. In 1906 the Muncie and Portland traction line was completed. In 1916 it was leased to the Indianapolis, Newcastle and Eastern Traction Company and operated as a division of the Union Traction Company.⁶⁴ In 1930 this service was discontinued.

AGRICULTURE

A large portion of Jay County was originally a swampy wilderness. Forests covered almost the entire surface and over much of the area water stood for a considerable part of the year. This had to be remedied before the naturally fertile glaciated soils of the county could be utilized for agricultural purposes. By 1914 only one swamp area remained in the county.⁶⁵

The dominant soil type of the county is Miami silt loam, a light brown, yellowish brown or grayish soil of the upland produced by the weathering of glacial deposits. Its principal crops are corn, timothy and clover hay, wheat and oats. The best corn producing soil of the county is Clyde silty clay loam, a dark brown to black soil found along the Salamonina River and some of the larger streams and on former sites of

⁶³ Jay, *op. cit.*, 202, 203.

⁶⁴ Glen A. Blackburn, "Interurban Railroads of Indiana", *Indiana Magazine of History*, December 1924.

⁶⁵ Indiana *Geological Report*, 1914 (Indianapolis, Indiana, 1915), 82.

ponds and marshes scattered throughout the county. Genesee loam and Genesee silty clay loam are found in narrow belts along the streams. The former produces good crops of corn, wheat, oats, and grass. It is also adapted to onions, carrots, cabbage, celery, asparagus, beets, potatoes, and tomatoes. The latter is especially adapted to grass. The muck land of the county, a large area of which is found on the former site of the "loblolly" in Jackson Township, is adapted to corn, onions, celery, and peppermint.⁶⁶

The first attempt to organize the agricultural interests of the county was made in 1850, when the Jay County Agricultural Society was formed and samples of the agricultural products of the county exhibited at the courthouse. About 1854 a tract of land was obtained just west of Portland, where fairs were held. These were discontinued at the outbreak of the Civil War but were revived in 1871 and since that time have been maintained unbroken.⁶⁷

A soil survey of the county completed in 1914 under the direction of Allen David Hole of the Indiana Department of Geology and Natural Resources recommended, as means of effecting improvements in the agriculture of the county, better drainage, a better system of crop rotation, more judicious use of fertilizers, and more careful attention to the selection of seed.⁶⁸

INDUSTRY

The first industries of Jay County were established to supply the urgent local demands of the people. In the spring of 1836 Joshua Bond constructed in Penn Township a hand grist mill, using a pair of hand millstones which he brought from Ohio. In 1837 he built a mill operated with horses. To this mill he later added a threshing machine; people came as far as 20 miles, bringing sheaves to be threshed and grain to be ground. About 1838 Samuel Grissell started a sawmill at Camden and to this he added a grist mill a few years later. Originally a water mill, it was converted into a steam mill in 1850.⁶⁹ New Corydon quite early became a place of considerable industrial importance. There John B. Gillispie

⁶⁶ *Ibid.*, 75-81.

⁶⁷ Jay *op. cit.*, 1:183, 184.

⁶⁸ Indiana *Geological Report*, 1914, pp. 82-88.

⁶⁹ Jay, *op. cit.*, 1:97.

constructed a grist mill on the Wabash in 1839 and in 1842 James Gillispie built a sawmill. In 1845 Theophilus Wilson established a tanyard there and in the same year Almon Sparling opened a cooperage shop.⁷⁰ In the early years of the county, hoop poles were hauled for long distances, heavy loads of them being taken to Eaton and Camden, in Preble County, Ohio.⁷¹

Jay County shared in the specialization of industries that took place in the United States as a result of the development of improved means of transportation. Soon after the Civil War there were in Portland a barrel and stove factory, an excelsior factory, a handle and spoke factory, a door sash and blind factory, a factory for the manufacture of butter tubs and pails, a planing mill, a wagon and carriage factory, a marble works, a tile factory, and a manufactory of garments. In 1876 a flour mill was located there and in 1880 a well equipped foundry and machine shop. Sometime before 1922, with the development of the automotive industry, a body works, an auto wheel works, and a wooden rim factory were established in Portland.⁷²

The discovery of natural gas and oil exerted a great influence on the county. From a well bored at Portland in 1886, the first in the county, only a slight flow was obtained. Later wells were more successful. From the wells of the county, estimated at 3,000 in number, gas to the value of \$10,000,000 and oil to the value of \$9,000,000 were obtained. Of these sums it is estimated that the citizens of the county profited to the extent of \$12,000,000.⁷³ The results were not wholly good, however. In 1900 the county had a population of 26,818. By 1910 it had declined to 24,961 and by 1920 to 23,318.⁷⁴ This was due primarily to the decline of the oil and gas industries.

SOCIAL WELFARE

An early act of the Indiana legislature provided that public charges be maintained in private homes at public expense. Two overseers of the poor were provided for each township and charged with the duty of farming out to the

⁷⁰ *Ibid.*, 100, 101.

⁷¹ *Ibid.*, 109.

⁷² *Ibid.*, 175.

⁷³ *Ibid.*, 256, 257.

⁷⁴ *Fourteenth Census of the United States: 1920, Population* (Washington, D. C., 1921), 1:409.

lowest bidder those dependent on public charity.⁷⁵ Various entries in the Commissioners' Record illustrates the operation of the laws. Thus James Graves was allowed \$17 for keeping Peter Graves, a pauper of Noble Township, for 6 months.⁷⁶ For his services in farming out Peter Graves, Conneway Stone, an overseer of the poor, was allowed \$2.50.⁷⁷ Abraham Lotz and Jeremiah Snelbecker, overseers of the poor in Madison Township, begged leave to report that they had made an agreement with Paul Beard to keep Christopher Beard for the term of 1 year and 3 months for the sum of \$62.50 to be paid out of the county treasury.⁷⁸

In 1864 the county paid \$4,000 for 160 acres of land to be used as a county farm. The following year an additional quarter section was purchased for \$2,400. In 1885, \$3,458 was expended for a house and the next year \$2,622 for a barn.⁷⁹

EDUCATION

The first schools of the county were subscription schools, the parents of the school community contributing to the school in proportion to the number of children they had enrolled. The earliest schoolhouses were rude log structures heated with fireplaces and lighted through openings in the wall covered with greased paper. The tables and desks were split logs into which holes were bored on the round side and pegs inserted for legs. The curriculum consisted of reading, writing, and arithmetic—the three R's. The school terms were short, seldom extending over 3 months and usually much less. The rules were strict and the punishment for their infraction usually severe, the adage "no lickin', no larnin'" being interpreted literally and freely applied.

The first school in the county was a subscription school taught by Mrs. Abraham Lotz in Madison Township in the fall of 1833, an enterprise which she repeated the following year. In the summer of 1835 two schools were taught, one by Miss Sarah Thorp in Liber and the other by Edward Bell Wotten in Madison Township.⁸⁰

⁷⁵ Acts 1817-18 (general), ch. 14.

⁷⁶ Commissioners' Record, A:80.

⁷⁷ *Ibid.*, 73.

⁷⁸ *Ibid.*, 421.

⁷⁹ *Biographical and Historical Record of Jay and Blackford Counties of Indiana*, 240.

⁸⁰ *Official Program of the Portland, Indiana Centennial* (1936), 23, 24.

The Indiana Constitution of 1816 provided that "the money which shall be paid, as an equivalent by persons exempt from militia duty, except in time of war, shall be exclusively, in equal proportions, applied to the support of county seminaries; also fines assessed for any breach of the penal laws shall be applied to said seminaries in the county wherein they shall be assessed."⁸¹

At its January session, 1837, the board of commissioners appointed Daniel W. McNeal trustee of the county seminary fund.⁸² Two years later McNeal reported that \$8.80 of the seminary fund had been loaned out and that \$5 had been collected in fines by the justices of the peace.⁸³ On May 3, 1841 the fund amounted to \$151.10.⁸⁴

An act of the Indiana legislature approved February 4, 1831 provided that when a seminary fund in any county amounted to \$400 provision might be made for the erection of a suitable building.⁸⁵ In June 1845 the board of commissioners purchased for \$20 lot No. 5 in block No. 3 in Portland as a site for the seminary.⁸⁶ In June 1847 the contract for the construction of the building was let to Jacob Bosworth for \$475.00.⁸⁷ Apparently this contract did not provide for the completion of the structure, for in January 1848 Bosworth was awarded another contract for \$275 to complete the building.⁸⁸ The building was a one-story building, 40 feet long and 30 feet wide and contained 3 rooms. One room opened on High Street and another on Commerce Street.⁸⁹

School opened in the fall of 1848 and continued in operation for 4 years.⁹⁰ In 1850 it employed 2 teachers and had 80 pupils enrolled.⁹¹ In the same year there were

⁸¹ "Constitution of the State of Indiana, 1816" (hereinafter cited as Const. 1816), art. 9, sec. 1, in *The Revised Statutes of the State of Indiana, 1843* (Indianapolis, Indiana, 1843), 38-64 (volume hereinafter cited as Rev. Stat. 1843).

⁸² Commissioners' Record, A:5.

⁸³ *Ibid.*, A:84.

⁸⁴ *Ibid.*, A:202.

⁸⁵ *The Revised Laws of the State of Indiana, 1831* (Indianapolis, Indiana, 1831), ch. 90, secs. 11, 17 (volume hereinafter cited as Rev. Laws 1831).

⁸⁶ Commissioners' Record, A:202.

⁸⁷ *Ibid.*, B:24.

⁸⁸ *Ibid.*, 55.

⁸⁹ Fiers, *op. cit.*, ch. 77, in the *Portland Commercial Review*, May 14, 1931.

⁹⁰ Fiers, ch. 78, *Portland Commercial Review*, May 20, 1931.

⁹¹ *Seventh Census of the United States: 1850* (1853), 785.

33 other schools in the county, with 33 teachers and 810 pupils.⁹²

Liber College was organized in May 1853. Initial costs were met by the sale of shares at \$20 each. In the same year a building consisting of two rooms and a basement was constructed, south of Portland, at a cost of \$1,200.⁹³ School opened on November 5, 1853, with Rev. I. N. Taylor, president, and Julia A. Weber, principal of the primary department.⁹⁴ During the year 1860-61, 37 persons were enrolled in the primary department, 25 in the collegiate department, and 96 listed as "other students", a total of 156. Of these, 115 were males and 41 females.⁹⁵ In 1872 a new two-story building was erected but 6 years later the college was discontinued.⁹⁶

During the first term of Liber College a dissension arose among the stockholders over the question of admitting colored students. As a result several stockholders withdrew and organized Farmers' Academy, for white students only. A building was constructed one-half mile west of Liber College. In December 1854 the doors opened, with C. C. Chamberlin in charge. In 1859 the school was taken over by the Methodist Episcopal Church Conference, which operated it until 1865. On December 25, 1867 the building was sold to Wayne Township.⁹⁷ "

In 1862 the Eastern Indiana Normal School was established in Portland by George Suman, who became the first president of the institution. A brick building was erected at the northwest corner of West Arch and Middle streets. South of this building a dormitory containing about 40 rooms was constructed. During its first term it enrolled about 275 students. Under various forms and with varying fortunes it continued to operate until 1898. With the abandonment of the buildings for school purposes they were remodeled as residences.⁹⁸

In the meantime the provision in the Indiana Constitution of 1851 requiring that the legislature "provide by law, for a general and uniform system of Common Schools, wherein

⁹² *Ibid.*, 784.

⁹³ Fiers, *op. cit.*, ch. 10, in the *Portland Commercial Review*, November 6, 1929.

⁹⁴ Fiers, ch. 104, *Portland Commercial Review*, November 19, 1931.

⁹⁵ *Eighth Annual Catalogue of Liber College* (Indianapolis, Indiana, 1861).

⁹⁶ Fiers, *op. cit.*, ch. 264, in the *Portland Commercial Review*, January 23, 1935.

⁹⁷ *Ibid.*

⁹⁸ Jay, *op. cit.*, 1:225.

tuition shall be without charge and equally open to all,"⁹⁹ was bearing fruit. In 1921 there were 5,127 enrolled in the public schools of the county. Of this number, 709 were enrolled in the high school; in the same year there were 125 elementary school teachers employed and 41 high school teachers.¹⁰⁰

EARLY JOURNALISM

The first newspaper published in the county was the *Portland Journal* which was established by John Shanks in 1852 for the purpose of advocating Whig doctrines. After the election of 1856 the paper was discontinued but in 1858 Shanks again entered the field of journalism and in association with L. M. Morrison launched the *Jay County Republican*. The paper was later purchased by William S. Jones who abandoned it at the end of 1 year.

The oldest Democratic newspaper in the county was the *Jay County Democrat*, the publication of which was begun by William McKormick, then postmaster of Portland, in November 1856. It celebrated the demise of its competitor in one of its early issues but it also died 3 years later.

In September 1859 M. W. Montgomery founded the *Jay Torchlight* which, under several different ownerships, continued until 1865 when it was sold to R. C. Harper who in the meantime had established the *Republican*. In 1866 the *Republican* passed into the hands of Joseph E. Jones, who changed its name to the *Jay and Adams Republican*. In August of the following year Jones died, but publication was continued by his father, Joseph H. Jones, until 1871, when it was sold to Elias J. Marsh. The name was changed to the *Commercial* and as such became one of the leading papers of eastern Indiana. In 1833 it was sold to J. M. Beelman but in 1887 it was again acquired by Marsh who converted it into a daily.

In May 1871 Harry F. Kingsberry established the *Live Hoosier*. A few weeks later it was sold to William Wallace Timmonds who rechristened it *The Democrat* and later the *Jay County Granger* and still later *The Portland Sun*.

⁹⁹ "Constitution of the State of Indiana, 1851" (hereinafter cited as Const. 1851), art. 8, sec. 1, in Harrison Burns, editor, *Annotated Indiana Statutes, Containing All Acts of a General and Public Nature in Force September 1, 1933* (Indianapolis, Indiana, 1933-), 1:122 (series hereinafter cited as Burns); also in William E. Baldwin, editor, *Baldwin's Indiana Statutes Annotated 1934* (Cleveland, Ohio, 1934-), 23-63 (series hereinafter cited as Baldwin).

¹⁰⁰ *Ibid.*, 222.

In December 1866 J. W. Vans started the *Jay County Bazoo* which had for its subtitle: "a paper for the people now on earth." It advocated Republican principles and in 1887 the name was changed to the *Republican*.

The first Jay County paper established outside of Portland was the *Dunkirk Courier* established by Shelby C. Freeman as early as 1875 but which lived less than a year. A few years later Andrew W. Mavis established the *Banner* in Dunkirk and still later the *Independent* was established there by Hial J. Evans.¹⁰¹

JAY COUNTY TODAY

In 1930 Jay County had a population of 20,846. Of this number, 20,699 were white, 135 were negroes, and 12 belonged to other races. Of the white people, 20,566 were native white and 133 were foreign-born white. Of the native whites, 19,600 were of native parentage, 429 of foreign parentage, and 537 of mixed parentage. The rural population numbered 13,135 and the urban population 7,711.¹⁰²

In 1935 there were 2,463 farms in the county, the average size of which was 95.1 acres. Of these, 1,240 were operated by the full owners, 414 by part owners, nine by managers, 800 by tenants. The total value of the farm land including buildings was \$10,358,757, the average value per farm \$4,206, and the average value per acre \$44.25.¹⁰³

For the 10-year period from 1927 to 1936 inclusive the county's average yield of corn and wheat per acre was 32.4 and 19.4 bushels, respectively, as compared with state yields of 32.2 and 16.8 bushels, respectively.¹⁰⁴

For the year 1929 the 28 manufacturing establishments of the county employed 1,589 people, paid \$1,507,752 annual wages and salaries, and manufactured products to the value of \$7,000,993.¹⁰⁵ Among the products manufactured in the county in 1935-36 were garments, steering wheels, brooms, brushes, drop forgings, tile silos, flour, glassware, and canned goods.¹⁰⁶

¹⁰¹ Jay, *op. cit.*, 1:205-214.

¹⁰² *Fifteenth Census of the United States: 1930, Population* (Washington, D. C., 1931) 3:pt. 1, 705.

¹⁰³ *United States Census of Agriculture: 1935* (Washington, D. C., 1937), 1:125.

¹⁰⁴ "Indiana Crops and Livestock," *Bulletin No. 159* (West Lafayette, Indiana, published by the U. S. Department of Agriculture co-operating with the Purdue University Agricultural Experiment Station), 9.

¹⁰⁵ *Fifteenth Census of the United States: 1930, Manufactures*, 3:162.

¹⁰⁶ Indiana State Planning Board, *Preliminary Survey of County Planning Problems in Indiana*

The total net sales of the 301 retail establishments of the county in 1929 amounted to \$5,978,000. Of this amount, 75 percent was sold by the 234 independent stores, 5 percent by the chain stores, and 20 percent by the 56 stores listed as belonging to other varieties.¹⁰⁷

The 34 wholesale establishments of the county had net sales of \$2,807,516 in value, an average of 70 on their payrolls, and paid wages and salaries to the value of \$95,875.¹⁰⁸

In 1936 the roads of the county consisted of one United States Highway (No. 27, extending north and south through Portland), 6 state highways, and 766 miles of county road, 33 miles of which were black top, 448 miles of crushed stone, 157 miles of gravel, and the remainder dirt.¹⁰⁹

For the school year 1938-39 the township schools of the county consisted of 5 consolidated township grade and high schools, 28 one-room schools, and the Portland, Dunkirk, and Redkey city schools. The Portland city schools for that year consisted of junior and senior high schools and four grade schools. The Dunkirk schools included a high school and grade school. Redkey had a high school and grade school combined.¹¹⁰

The organized recreational facilities of the county outside of those that are commercial and those connected with schools, are confined to Portland, which maintains two public parks, with one swimming pool, tennis courts, and playground apparatus.

The hospital at Portland is the only one in the county. It is operated by the Jay County Women's Hospital Association on a non-profit basis, both county and city contributing to the upkeep.¹¹¹

As a result of the nation-wide depression, the system of relieving distress through the county poor farm and by direct relief from the township trustees was unable to care for all the needy, and in 1933 the federal, state, and county governments began to supplement those facilities with programs of social welfare payments and work relief.¹¹²

Counties (Indianapolis, Indiana, typewritten, 1935-36; in the Indiana State Library), Jay County section.

¹⁰⁷ *Fifteenth Census of the United States: 1930, Retail Distribution*, 1:pt. 2:710.

¹⁰⁸ *Ibid.*, *Wholesale Distribution*, 2:20.

¹⁰⁹ Indiana State Planning Board, *op. cit.*

¹¹⁰ *Indiana School Direction, 1938-1939* (Indianapolis, Indiana, 1938), 146-148.

¹¹¹ Indiana State Planning Board, *op. cit.*

¹¹² See the essay entitled "County Department of Public Welfare."

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi-corporation, organized as a political subdivision of the state, solely for governmental purposes. It is an instrumentality of government, exercising the powers delegated by the state and acting for the state. County officers are agents of the state. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the state constitution, the general assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.¹

Before the adoption of the Constitution of 1851, the legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organization and functions.² The general assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld³

¹ *Gavin v. Board of County Comrs.* (1835), *Reports of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana* (Indianapolis, 1852—), 104:201 (series hereafter cited as Ind.), *North Eastern Reporter: Cases Argued and Determined in the Courts of Indiana, Illinois, Ohio, New York, Massachusetts* (St. Paul, Minn., 1885—), 3:846 (series hereafter cited as N. E.); *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133; *Applegate v. Pettijohn* (1933), 205 Ind. 122, 125, 185 N. E. 911; *McDermott v. Board of County Comrs.* (1915), *Reports of Cases Argued and Determined in the Appellate Court of the State of Indiana* (Indianapolis, 1891—), 60:209 (series hereafter cited as Ind. App.), 110 N. E. 237; *Buck v. Indiana Constr. Co.* (1923), 79 Ind. App. 329, 138 N. E. 356.

"Offices created by the legislature can be abolished by the legislature. The power that creates can destroy. The creator is greater than the creature. The term of an office may be shortened, the duties of the office increased, and the compensation lessened, by the legislative will." *Rogers v. Calumet National Bank* (1938), 213 Ind. 576, 585, 12 N. E. (2d) 261.

² Const. 1851, art. 4, secs. 22, 23.

³ *State ex rel. Hargrave v. Reitz* (1878), 62 Ind. 159; *Campbell v. Indianapolis*, (1900), 155 Ind. 186, 57 N. E. 920; *Bullock v. Robison* (1911), 176 Ind. 198, 93 N. E. 998; *Wayne Twp. v. Brown* (1933), 205 Ind. 437, 186 N. E. 841; *Meara v. Brindley* (1935), 207 Ind. 657, 194 N. E. 351; *Groves v. Board of County Comrs.* (1936), 209 Ind. 371, 199 N. E. 137; *Crowe v. Board of County Comrs.* (1936), 210 Ind. 404, 3 N. E. (2d) 76; *Board of County Comrs. v. Crowe* (1938), 214 Ind. 446, 14 N. E. (2d) 907.

and sometimes held void as being in conflict with these constitutional provisions.⁴ Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.⁵ The counties of Clark⁶ and Dearborn⁷ were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,⁸ Gibson,⁹ Harrison,¹⁰ Jackson,¹¹ Jefferson,¹² Orange,¹³ Perry,¹⁴ Posey,¹⁵ Switzerland,¹⁶ Warrick,¹⁷ Washington,¹⁸ and Wayne¹⁹ were created by special acts of the General Assembly of Indiana Territory. These 15 counties are all mentioned in the Constitution of 1816.²⁰ The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."²¹ The

⁴ Campbell v. Indianapolis (1900), 155 Ind. 186, 57 N. E. 920; Rushville v. Hays (1904), 162 Ind. 193, 70 N. E. 134; Bumb v. Evansville (1907), 168 Ind. 272, 80 N. E. 625; Kraus v. Lehman (1903), 170 Ind. 408, 83 N. E. 714; Bullock v. Robison (1911), 176 Ind. 198, 93 N. E. 998; Boberg v. Harlem (1924), 194 Ind. 310, 142 N. E. 735; Heffelfinger v. Ft. Wayne (1925), 196 Ind. 689, 149 N. E. 555; Heckler v. Conter (1933), 206 Ind. 376, 187 N. E. 878; Crowe v. Board of County Comrs. (1936), 210 Ind. 404, 3 N. E. (2d) 76.

⁵ William Henry Smith, editor, *The St. Clair Papers* (Cincinnati, 1882), 2:166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (1933), 21, 514.

⁶ Pence and Armstrong, *op. cit.*, 256.

⁷ *Ibid.*, 310.

⁸ Acts 1810, ch. 6.

⁹ Acts 1813, ch. 23.

¹⁰ Acts 1808, ch. 1.

¹¹ Acts 1815, ch. 1.

¹² Acts 1810, ch. 2.

¹³ Acts 1815, ch. 12.

¹⁴ Acts 1814, ch. 7.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, ch. 9.

¹⁷ Acts 1813, ch. 23.

¹⁸ Acts 1813-14, ch. 10.

¹⁹ Acts 1810, ch. 1.

²⁰ Const. 1816, art. 12, sec. 9.

²¹ *Ibid.*, art. 11, sec. 12.

Constitution of 1816 further provided that the legislature, at the time they lay off a new county, should provide certain funds for a public library.²² The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."²³ The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."²⁴ The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;²⁵ but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

The legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the boards of commissioners in the several counties which would be affected by the proposal.²⁶ No new counties have been created since the enactment of this law.

STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Jay County in 1836,²⁷ the following officers, boards, and courts (arranged alphabetically in three groups) have existed or been legally available in the county:

OFFICERS

Appraiser (1841 to 1872)²⁸

Appraiser of state lands (permissive since 1889)²⁹

Auditor (1841 to date)³⁰

²² *Ibid.*, art. 9, sec. 5.

²³ Const. 1851, art. 15, sec. 7.

²⁴ *Ibid.*, art. 4, sec. 2.

²⁵ *Ibid.*, schedule, par. 15.

²⁶ Acts 1861; Burns 26-301 to 26-310; William E. Baldwin, editor, *Baldwin's Indiana Statutes Annotated 1934* (Cleveland, Ohio, 1934—), 5044 to 5053 (series hereinafter cited as Baldwin).

²⁷ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

²⁸ See the essay entitled "County Assessor."

²⁹ See the essay entitled "Board of Commissioners."

³⁰ See the essay entitled "Auditor."

Bailiff (permissive since 1852)³¹
 Clerk of the circuit court (1836 to date)³²
 Coroner (1836 to date)³³
 County agent (1836 to 1852)³⁴
 County agricultural agent (permissive 1913 to 1937, mandatory since 1937)³⁵
 County assessor (1836 to 1852, 1872 to 1875, 1891 to date)³⁶
 County attendance officer (permissive since 1913)³⁷
 County attorney (permissive since 1899)³⁸
 County director of public welfare (1936 to date)³⁹
 County engineer (permissive since 1852)⁴⁰
 County health commissioner (1909 to 1938)⁴¹
 County health officer (1881 to 1909, 1938 to date)⁴²
 County highway superintendent (1913 to 1933)⁴³
 County highway supervisor (1933 to date)⁴⁴
 County inspector of weights and measures (permissive since 1911)⁴⁵
 County physician (permissive since 1852)⁴⁶
 County school commissioner (1836 to 1849)⁴⁷
 County school examiner (1838 to 1873)⁴⁸
 County superintendent (1873 to 1927)⁴⁹

³¹ See the essay entitled "Circuit Court."

³² See the essay entitled "Clerk of the Circuit Court."

³³ See the essay entitled "Coroner."

³⁴ See the essay entitled "Auditor."

³⁵ See the essay entitled "County Agricultural Agent."

³⁶ See the essay entitled "County Assessor."

³⁷ See the essays entitled "County Board of Education" and "County Superintendent of Schools."

³⁸ See the essay entitled "Board of Commissioners."

³⁹ See the essay entitled "County Department of Public Welfare."

⁴⁰ See the essays entitled "Board of Commissioners" and "Surveyor."

⁴¹ See the essay entitled "County Health Officer."

⁴² *Ibid.*

⁴³ See the essay entitled "County Highway Supervisor."

⁴⁴ *Ibid.*

⁴⁵ Acts 1911, ch. 263. Acts 1913, ch. 161. Acts 1925; Burns 69-104, 69-106 to 69-109; Baldwin 16335, 16337 to 16340.

⁴⁶ See the essay entitled "Board of Commissioners."

⁴⁷ See the essay entitled "County School Fund Board."

⁴⁸ See the essay entitled "County Superintendent of Schools."

⁴⁹ *Ibid.*

County superintendent of schools (1927 to date)⁵⁰
 County veterinarian (permissive since 1915)⁵¹
 Court page (permissive since 1836)⁵²
 Court reporter (permissive since 1881)⁵³
 District attorney (1853 to 1873)⁵⁴
 District road supervisors (1836 to 1879)⁵⁵
 Election inspectors (1836 to date)⁵⁶
 Election judges (1836 to date)⁵⁷
 Election sheriffs (1929 to date)⁵⁸
 Home demonstration agent (permissive since 1914)⁵⁹
 Inspector of beef, flour, pork, salt, and hay (permissive since 1836)⁶⁰
 Jury commissioners (1881 to date)⁶¹
 Lister (1836 to 1841)⁶²
 Poll clerks (1852 to date)⁶³
 Probation officer (permissive since 1903)⁶⁴
 Prosecuting attorney (1836 to date)⁶⁵
 Public health nurse (permissive since 1935)⁶⁶
 Recorder (1836 to date)⁶⁷
 Registration clerks (1911 to 1917)⁶⁸
 Registration inspector (1911 to 1917)⁶⁹
 Registration officer (1889 to 1892, 1933 to date)⁷⁰

⁵⁰ *Ibid.*

⁵¹ See the essay entitled "Board of Commissioners."

⁵² See the essay entitled "Circuit Court."

⁵³ *Ibid.*

⁵⁴ See the essay entitled "Prosecuting Attorney."

⁵⁵ See the essay entitled "County Highway Supervisor."

⁵⁶ See the essay entitled "County Board of Election Commissioners."

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ See the essay entitled "County Agricultural Agent."

⁶⁰ See the essay entitled "County Health Officer."

⁶¹ See the essay entitled "Circuit Court."

⁶² See the essay entitled "County Assessor."

⁶³ See the essay entitled "County Board of Election Commissioners."

⁶⁴ See the essay entitled "Circuit Court."

⁶⁵ See the essay entitled "Prosecuting Attorney."

⁶⁶ See the essay entitled "Public Health Nurse."

⁶⁷ See the essay entitled "Recorder."

⁶⁸ See the essay entitled "Registration Officer."

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

Sheriff (1836 to date)⁷¹
 Surveyor (1836 to date)⁷²
 Tax collector (1836 to 1841)⁷³
 Tax ferrets (permissive since 1905)⁷⁴
 Tobacco inspector (permissive since 1836)⁷⁵
 Treasurer (1836 to date)⁷⁶
 Truant officer (perm issive 1897 to 1913)⁷⁷
 Trustee of public seminary (1836 to 1853)⁷⁸

BOARDS

Board of children's guardians (1901 to 1936)⁷⁹
 Board of commissioners (1836 to date)⁸⁰
 Board of county charities and corrections (1899 to 1936)⁸¹
 Board of equalization (1836 to 1890)⁸²
 Board of finance (1907 to date)⁸³
 Board of library trustees (permissive since 1852)⁸⁴
 Board of primary election commissioners (1907 to date)⁸⁵
 Board of registration commissioners (1917 to 1919)⁸⁶
 Board of turnpike directors (1879 to 1913)⁸⁷
 Commission of public records (1939 to date)⁸⁸

⁷¹ See the essay entitled "Sheriff."

⁷² See the essay entitled "Surveyor."

⁷³ See the essay entitled "Treasurer."

⁷⁴ See the essay entitled "Board of Commissioners."

⁷⁵ See the essay entitled "County Health Officer"

⁷⁶ See the essay entitled "Treasurer."

⁷⁷ See the essay entitled "County Board of Education."

⁷⁸ See the essay entitled "County School Fund Board."

⁷⁹ See the essay entitled "County Department of Public Welfare."

⁸⁰ See the essay entitled "Board of Commissioners."

⁸¹ See the essay entitled "County Department of Public Welfare."

⁸² See the essay entitled "County Board of Review."

⁸³ See the essay entitled "Board of Finance."

⁸⁴ *The Revised Statutes of the State of Indiana, 1852* (Indianapolis, Ind. 1852), vol. 1 (series hereafter cited as Rev. Stat. 1852); Burns 41-503; Baldwin 10321 note. Acts 1861; Burns' 41-507; Baldwin 10321 note. Traylor v. Dykins (1883), 91 Ind. 229.

⁸⁵ See the essay entitled "Board of Primary Election Commissioners."

⁸⁶ See the essay entitled "Registration Officer."

⁸⁷ See the essays entitled "Board of Commissioners" and "County Highway Supervisor."

⁸⁸ See the essay entitled "Commission of Public Records."

County board of canvassers (1843 to date)⁸⁹
 County board of education (1873 to date)⁹⁰
 County board of election commissioners (1889 to date)⁹¹
 County board of health (1881 to 1909)⁹²
 County board of public welfare (1936 to date)⁹³
 County board of review (1891 to date)⁹⁴
 County board of tax adjustment (1932 to date)⁹⁵
 County council (1899 to date)⁹⁶
 County hospital governing board (permissive since 1903)⁹⁷
 County department of public welfare (1936 to date)⁹⁸
 County planning commission (permissive since 1935)⁹⁹
 County public library board (permissive since 1917)¹⁰⁰
 County school fund board (1935 to date)¹⁰¹
 Precinct board of election (1852 to date)¹⁰²
 Precinct registration board (1911 to 1917, 1919 to 1927)¹⁰³
 Township board of registry (1867 to 1869)¹⁰⁴

COURTS

Circuit court (1836 to date)¹⁰⁵
 Court of common pleas (1853 to 1873)¹⁰⁶
 Court of conciliation (1853 to 1865)¹⁰⁷

⁸⁹ See the essay entitled "County Board of Canvassers."

⁹⁰ See the essay entitled "County Board of Education."

⁹¹ See the essay entitled "County Board of Election Commissioners."

⁹² See the essay entitled "County Health Officer."

⁹³ See the essay entitled "County Department of Public Welfare."

⁹⁴ See the essay entitled "County Board of Review."

⁹⁵ See the essay entitled "County Board of Tax Adjustment."

⁹⁶ See the essay entitled "County Council."

⁹⁷ Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4519.

⁹⁸ See the essay entitled "County Department of Public Welfare."

⁹⁹ Acts 1935; Burns, 1939 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

¹⁰⁰ Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

¹⁰¹ See the essay entitled "County School Fund Board."

¹⁰² See the essay entitled "County Board of Election Commissioners."

¹⁰³ See the essay entitled "Registration Officer."

¹⁰⁴ *Ibid.*

¹⁰⁵ See the essay entitled "Circuit Court."

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

Magistrates court (permissive since 1939)¹⁰⁸

Probate court (1836 to 1853)¹⁰⁹

A circuit court and a probate court were established in the county when it was organized in 1836. The sheriff preserved order generally, took part in conducting elections, and executed the process of the courts. The clerk of the circuit court acted as ministerial officer of the courts, served as clerk of the board of commissioners, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties, except that taxes were collected by a county tax collector (instead of the treasurer) until 1841. County business was transacted by the board of commissioners from 1836 until 1899, and by the board of commissioners and county council since 1899. The board of commissioners had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed several minor public officials, and provided for public education and poor relief. As a result of increased property valuations and transfers, broadening of the scope of commercial enterprises and transactions, a constant growth in population, and improvements in transportation facilities, taxation and county finance gradually grew from a simple form to a complex form requiring additional public officials. The office of auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1853 a court of common pleas was substituted for the probate court, but was abolished in 1873. A court of conciliation existed from 1853 until 1865. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

¹⁰⁸ Acts 1939, ch. 164. No magistrates have been appointed in Jay County under authority of this act.

¹⁰⁹ See the essay entitled "Circuit Court."

GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.¹¹⁰

CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.¹¹¹ The board cannot bind the county by any contract which is beyond the scope of its powers.¹¹² While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.¹¹³

Though the statutes prescribing the methods of awarding contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the "lowest responsible bidder," or, in some instances, the "lowest and best bidder."¹¹⁴ The right is usually reserved

¹¹⁰ Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

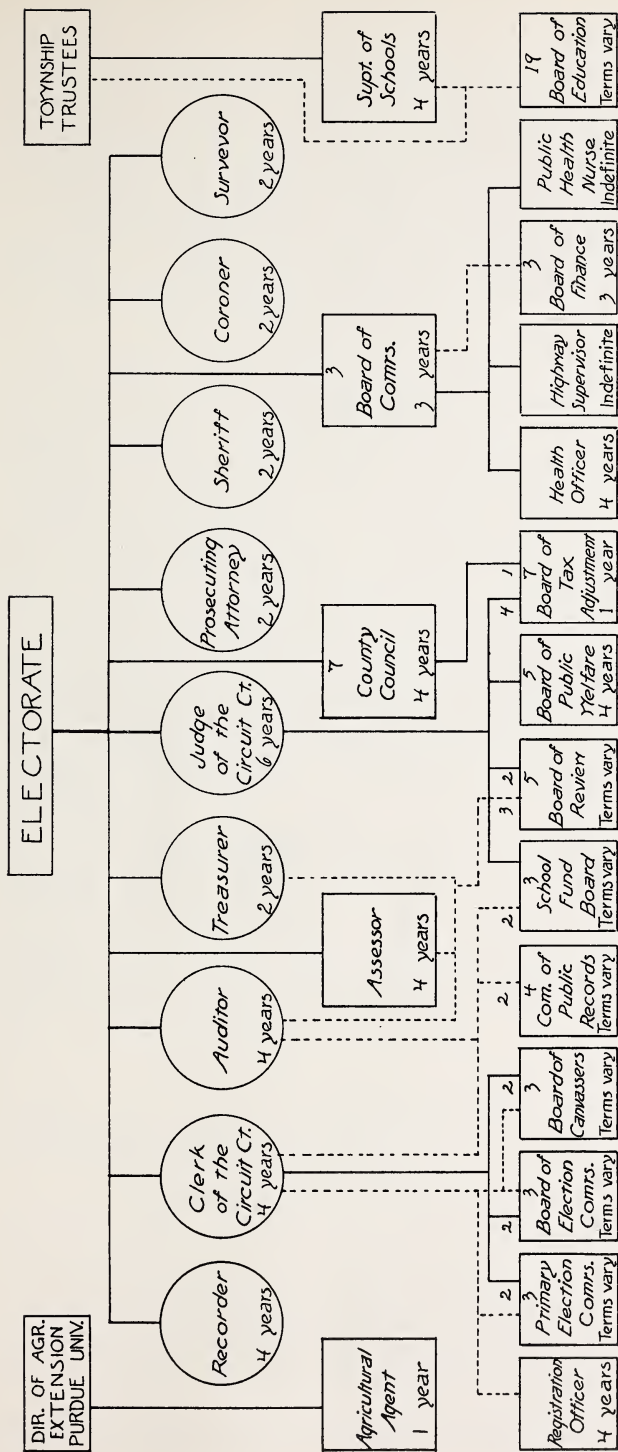
¹¹¹ Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 26-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

Use of prison-made goods. *Opinions of the Attorney General of Indiana, 1939* (Indianapolis, 1940), 98.

¹¹² *Hight v. Board of County Comrs.* (1879), 68 Ind. 575, 577; *Driftwood Valley Turnpike Co. v. Board of County Comrs.* (1880), 72 Ind. 226; *Board of County Comrs. v. Bradford* (1880), 72 Ind. 455.

¹¹³ *McCabe v. Board of County Comrs.* (1874), 46 Ind. 380; *Board of County Comrs. v. Ritter* (1883), 90 Ind. 362.

¹¹⁴ The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.* (1912), 178 Ind. 221, 98 N. E. 33; *Eigenmann v. Board of County Comrs.* (1913), 53 Ind. App. 1, 101 N. E. 38.



Commission of Public Records, selection of two members not indicated: One, the judge of Circuit Court; one, the president of the board of commissioners.

*Board of Tax Adjustment,
selection of two members not
indicated; One, the Mayor of
Portland or his appointee;
one, a member of the board of
school commissioners of Portland*

Health Officer, appointment approved by state board of health.

*Circles – constitutional officers.
Squares – statutory officers.
Figures – number of members
and term of office.
Solid lines – elected or appointed.
Broken lines – ex officio.*

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to the board, however, to reject any and all bids, if they are unsatisfactory, and re-advertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.¹¹⁵

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.¹¹⁶ A contract employing an attorney is an exception to this rule.¹¹⁷

ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.¹¹⁸ An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or in part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.¹¹⁹ If the allowance of a claim is illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.¹²⁰ If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the state on the relation of the board of commissioners or the officer making disbursement. If such suit is not brought within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the state on his own relation.¹²¹

¹¹⁵ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391.

¹¹⁶ Board of County Comrs. v. Shields (1891), 130 Ind. 6, 29 N. E. 335; Jessup v. Hinchman (1922), 77 Ind. App. 460, 133 N. E. 853.

¹¹⁷ Board of County Comrs. v. Taylor (1890), 123 Ind. 148, 23 N. E. 752.

¹¹⁸ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. Shilling v. State *ex rel.* Board of County Comrs. (1901), 158 Ind. 185, 62 N. E. 49.

¹¹⁹ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. Bass Foundry & Mach. Works v. Board of County Comrs. (1882), 115 Ind. 234, 17 N. E. 593; Board of County Comrs. v. Tichenor (1891), 129 Ind. 562, 29 N. E. 32; Mueller v. Board of County Comrs. (1920), 73 Ind. App. 196, 127 N. E. 15.

¹²⁰ Acts 1897; Burns 26-811; Baldwin 5262. Sudbury v. Board of County Comrs. (1901), 157 Ind. 446, 62 N. E. 45.

¹²¹ Acts 1899; Burns 26-545; Baldwin 5410.

The board of commissioners, as relator, may sue, in the name of the state, on official bonds to recover county funds.¹²² The auditor, as relator, may sue, in the name of the state, to recover money owing to the county.¹²³

The treasurer sues in his name, as treasurer, to collect property taxes.¹²⁴ Suit to collect inheritance taxes is brought in the name of the county.¹²⁵ After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners for a refund of taxes illegally assessed or collected.¹²⁶

Land needed by the county for public buildings,¹²⁷ highways, bridges, culverts,¹²⁸ drainage, sewers,¹²⁹ or airports¹³⁰ may be acquired by the county under its power of eminent domain, on payment of the value and damages fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically enjoins, or any duty resulting from his office or trust.¹³¹ For example, mandamus lies to compel: The auditor to draw warrants on the county treasury;¹³² the board of commissioners to take action on claims that have been properly presented,¹³³ to approve official bonds,¹³⁴ and to

¹²² Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.* (1879), 66 Ind. 386; *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

¹²³ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

¹²⁴ Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

¹²⁵ Acts 1931; Burns 6-2415; Baldwin 15953.

¹²⁶ Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.* (1932), 204 Ind. 87, 183 N. E. 404; *Board of County Comrs. v. Millikan* (1934), 207 Ind. 142, 190 N. E. 185.

¹²⁷ Acts 1899; Burns 26-2101; Baldwin 5109.

¹²⁸ Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

¹²⁹ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

¹³⁰ Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

¹³¹ Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

¹³² *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

¹³³ *Board of County Comrs. v. State ex rel. Reed* (1913), 179 Ind. 644, 102 N. E. 97.

¹³⁴ *State ex rel. Taylor v. Board of County Comrs.* (1890), 124 Ind. 554, 25 N. E. 10.

repair or rebuild bridges;¹³⁵ and the county council to make appropriations.¹³⁶

In some instances a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;¹³⁷ doing of illegal acts that would increase taxation;¹³⁸ payment of illegal claims;¹³⁹ and making an illegal contract.¹⁴⁰

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.¹⁴¹

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.¹⁴² No judgment against a county is enforceable except out of moneys appropriated by the county council for that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.¹⁴³

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,¹⁴⁴ including suits to collect taxes and tax penalties¹⁴⁵ and suits against officers or on their bonds.¹⁴⁶ The prosecuting attorney must make a report to

¹³⁵ *State ex rel. Roundtree v. Board of County Comrs.* (1881), 80 Ind. 478.

¹³⁶ *Shelby County Council v. State ex rel. School City of Shelbyville* (1900), Ind. 216, 57 N. E. 712.

¹³⁷ *Hobbs v. Board of County Comrs.* (1885), 103 Ind. 575, 3 N. E. 263.

¹³⁸ *State ex rel. Davis v. Board of County Comrs.* (1905), 165 Ind. 262, 74 N. E. 1091.

¹³⁹ *Warren Agri. Joint Stock Co. v. Barr* (1876), 55 Ind. 39. But see *Bentley v. Board of County Comrs.* (1936), 102 Ind. App. 533, 200 N. E. 499.

¹⁴⁰ *Farris v. Jones* (1887), 112 Ind. 498, 14 N. E. 484.

¹⁴¹ *State ex rel. Board of County Comrs. v. Board of County Comrs.* (1908), 170 Ind. 595, 608, 85 N. E. 513.

¹⁴² Acts 1899; Burns 26-527; Baldwin 5391. *Board of County Comrs. v. Pike Civil Twp.* (1907), 168 Ind. 535, 81 N. E. 469.

¹⁴³ Acts 1899; Burns 26-528; Baldwin 5392.

Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

¹⁴⁴ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹⁴⁵ Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1939 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

¹⁴⁶ Acts 1917; Burns 60-227; Baldwin 13878.

the board of commissioners each month showing the causes in which he appeared in person or by deputy.¹⁴⁷

RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.¹⁴⁸ To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,¹⁴⁹ and the intangible tax thereon (if any) must be paid.¹⁵⁰ No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹⁵¹

The recorder and clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are set out in the essays on their offices in Part B of this book.

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the general assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the state bureau of motor vehicles),¹⁵² but has no system of registering titles to other personal property.

¹⁴⁷ Acts 1933; Burns 49-2695; Baldwin 7550.

¹⁴⁸ Acts 1935; Burns, 1939 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120. Acts 1877; Burns 56-716; Baldwin 998.

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John (1938), 213 Ind. 171, 12 N. E. (2d) 127.

¹⁴⁹ *The Revised Laws of the State of Indiana, 1831* (Indianapolis, 1831), ch. 41, secs. 7, 11 (volume hereafter cited as Rev. Laws 1831). Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgement or proof must be recorded with the instrument. *Ibid.*

¹⁵⁰ Acts 1933; Burns 64-929; Baldwin 15927.

¹⁵¹ 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin

¹⁵² Acts 1921, 1931, 1935, 1939; Burns, 1939 suppl., 47-301; Baldwin, 1939 suppl., 11128.

JUDICIARY

Jay Circuit Court (the only court of record in the county) has been in active existence since 1836. Jay County alone has constituted the 58th judicial circuit since April 14, 1897. Before then the county belonged to judicial circuits composed of more than one county. The circuit court has consisted of one judge since 1851. Before then it was composed of three judges (two associate judges who served in Jay County only, and one president judge who served in each county of the judicial circuit). The following courts previously existed in Jay County, but were abolished: Probate court, 1836 to 1853; court of common pleas, 1853 to 1873; and court of conciliation, 1853 to 1865.¹⁵³

The circuit court has original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction), all civil actions at law, all suits in equity (including divorce suits), election contests, juvenile matters, insanity inquests and commitments, proceedings for removal of county officers, proceedings to commit persons to hospitals operated by Indiana University, guardianships, probate of wills, and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.¹⁵⁴ The United States Department of

¹⁵³ See the essay entitled "Circuit Court."

¹⁵⁴ General provisions. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Naturalization proceedings. *U. S. Statutes at Large*, 2:153. 155 (law of 1802); 4:69 (law of 1824). *The Code of the Laws of the United States of America of a General and Permanent Character in Force January 3, 1935* (Washington, 1935), title 8, sec. 357 (laws of 1906, 1911, 1913), (volume hereafter cited as *U. S. C.*).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Election contests. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

Removal of county officers. Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State* (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

Juvenile matters. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

Insane persons. 2 Rev. Stat. 1852, Acts 1895; Burns 8-202 *et seq.*; Baldwin 3460 *et seq.*

Labor does not furnish the Jay Circuit Court with the necessary printed forms for naturalization proceedings, hence this court is prevented from exercising its naturalization jurisdiction. Naturalization forms were furnished to this court until 1906 and will be furnished again whenever the number of aliens in the county is large enough.¹⁵⁵

The circuit court has appellate jurisdiction¹⁵⁶ to review decisions of justices of the peace,¹⁵⁷ municipal courts punishing violations of ordinances,¹⁵⁸ board of commissioners,¹⁵⁹ board of review fixing value of property for taxation,¹⁶⁰ taxing authorities determining that property is taxable,¹⁶¹ board of public works or board of park commissioners of any city in the county (or city council performing such functions),¹⁶² and other inferior tribunals when no express direction is given as to the court to which the appeal lies.¹⁶³

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish contempts; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);¹⁶⁴ and to adopt rules for conducting its business.¹⁶⁵ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.¹⁶⁶

Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

Willis. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

Hospitals operated by Indiana University. Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

¹⁵⁵ Interview of March 5, 1940 with Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District.

¹⁵⁶ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁵⁷ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

¹⁵⁸ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

¹⁵⁹ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. *State ex rel. Sink v. Cass Circuit Court* (1938), 214 Ind. 323, 15 N. E. (2d) 624.

¹⁶⁰ Acts 1927; Burns 64-1020; Baldwin 15686.

¹⁶¹ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

¹⁶² Acts 1933; Burns 48-4501; Baldwin 11576.

¹⁶³ *Hamilton v. Fort Wayne* (1880), 73 Ind. 1.

¹⁶⁴ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

¹⁶⁵ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

¹⁶⁶ 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

In each township in Jay County there is a justice of the peace, elected for a 4-year term by the voters of the township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession, exclusive original jurisdiction of misdemeanors under the state laws punishable by fine not exceeding \$3, original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the state laws punishable by fine only, with power to assess fines only up to \$25, and jurisdiction as a committing magistrate in criminal cases under the state laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is co-extensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. Jay County has had justices of the peace since its organization in 1836.¹⁶⁷

Arranged according to subject matter, the courts existing in Jay County from 1836 to date have had original jurisdiction as follows:—*Civil actions at law*: (a) circuit court (1836 to date);¹⁶⁸ (b) probate court (1838 to 1853);¹⁶⁹ (c) court of common pleas (1853 to 1873);¹⁷⁰ *criminal cases*: (a) circuit court

¹⁶⁷ Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. *The Revised Statutes of the State of Indiana, 1838* (Indianapolis, 1838), ch. 7, (second act), sec. 1 (volume hereafter cited as Rev. Stat. 1838); ch. 58, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 5-8. 2 Rev. Stat. 1852, pt. 4, ch. 1, secs. 1-3; ch. 6, secs. 1-9. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1852, Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

¹⁶⁸ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. *The Revised Laws of the State of Indiana, 1824* (Corydon, Indiana, 1824), ch. 24, secs. 4, 5 (volume hereafter cited as Rev. Laws 1824). Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. *The Revised Statutes of the State of Indiana, 1843* (Indianapolis, 1843), ch. 38, secs. 7, 10-12 (volume hereafter cited as Rev. Stat. 1843). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁶⁹ Dower proceedings, partition proceedings, and actions concerning heirs, devisees, executors, administrators, and guardians. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5, 6. Rev. Stat. 1843, ch. 39, secs. 1, 6-8.

The probate court was abolished in 1853 and its jurisdiction was transferred to the court of common pleas. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷⁰ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 5, 7, 11, 12, 23. Jones v. Cavins (1853), 4 Ind. 305.

The court of common pleas had no jurisdiction of civil actions at law involving title to

(1836 to date);¹⁷¹ (b) court of common pleas (1853 to 1873);¹⁷² *chancery cases*: (a) circuit court (1836 to date);¹⁷³ (b) probate court (1838 to 1853);¹⁷⁴ (c) court of common pleas (1853 to 1873);¹⁷⁵ *probate matters, settlement of decedents' estates, and guardianships*: (a) circuit court (1873 to date)¹⁷⁶ (b) probate court (1836 to 1853);¹⁷⁷ (c) court of common pleas (1853 to 1873);¹⁷⁸

real estate, or to recover on bonds of state or county officers, or to recover damages for slander, libel, or breach of marriage contract, or to recover \$1,000 or more, or to recover \$50 or less. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11.

The court of common pleas was abolished in 1873, and its jurisdiction was transferred to the circuit court. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁷¹ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5-7; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, secs. 5-7. Rev. Laws 1824, ch. 24, secs. 4-6. Rev. Laws 1831, ch. 22, secs. 3-5. Rev. Stat. 1838, ch. 23 (first act), secs. 3-5. Rev. Stat. 1843, ch. 38, secs. 9, 12, 13. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1867, ch. 16, sec. 1; ch. 26. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁷² The court of common pleas had no jurisdiction of offenses punishable by death. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 14-19. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷³ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2; ch. 4. Acts 1817-18 (general), ch. 2, sec. 5; ch. 3. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), secs. 3, 12. Rev. Stat. 1843, ch. 38, secs. 8, 10-12; ch. 46, secs. 1-3. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

¹⁷⁴ Chancery suits in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 5. Rev. Stat. 1843, ch. 39, secs. 1, 6; ch. 46, secs. 1-3.

¹⁷⁵ 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 7, 11, 21. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷⁶ Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, secs. 2, 3. Acts 1817-18 (general), ch. 2, sec. 5; ch. 13. Rev. Laws 1824, ch. 24, secs. 4, 5; ch. 79. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 22, sec. 3; ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 38, secs. 6-13; ch. 39, secs. 1, 6-8. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 43. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷⁷ Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, secs. 1, 4-6. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1, 5-8. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8 sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

¹⁷⁸ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 4. Acts 1873; Burns 4-328; Baldwin 1417. Jones v. Cavins (1853), 4 Ind. 305.

juvenile matters: (a) circuit court (1867 to date);¹⁷⁹ (b) court of common pleas (1867 to 1873);¹⁸⁰ *conciliation:* court of conciliation (1853 to 1865);¹⁸¹ *naturalization Proceedings:* (a) circuit court (1836 to date);¹⁸² (b) court of common pleas (1853 to 1873).¹⁸³

Decisions of the circuit court were reviewable by the Supreme Court of Indiana from 1836 until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana.¹⁸⁴ Decisions of the probate court (1836 to 1853) and the court of common pleas (1853 to 1873) were reviewable by the Jay Circuit Court or the Supreme Court of Indiana.¹⁸⁵ Proceedings in the court of conciliation could not be appealed to another court.¹⁸⁶

¹⁷⁹ Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1927, 1929; Burns 4-603; Baldwin 1453. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

¹⁸⁰ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 1. Acts 1867, ch. 62, secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁸¹ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2. *Jones v. Cavins* (1853), 4 Ind. 305.

The court of conciliation was abolished in 1865. Acts 1865 (Spec. Sess.), ch. 57.

¹⁸² *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). Const. 1816, art. 5, secs. 1, 3. Const. 1851, art. 7, secs. 1, 8. Acts 1816-17, ch. 2, secs. 5, 6; ch. 3, sec. 2. Acts 1817-18 (general), ch. 2, sec. 5. Rev. Laws 1824, ch. 24, secs. 4, 5. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23 (first act), sec. 3; ch. 88, sec. 1. Rev. Stat. 1843, ch. 38, secs. 7, 10-12. 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, sec. 11. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Because of the failure of the United States Department of Labor to furnish the necessary printed forms, this court is prevented from exercising its jurisdiction in naturalization proceedings.

¹⁸³ *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 5, 7, 11, 12, 21, 23. Acts 1873; Burns 4-328; Baldwin 1417. *Jones v. Cavins* (1853), 4 Ind. 305.

¹⁸⁴ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1891, ch. 37. Acts 1893, ch. 32. Acts 1897, ch. 9. Acts 1899, ch. 22. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

¹⁸⁵ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 15. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36. 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

¹⁸⁶ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 7, 12-14.

The clerk of the circuit court, in person or by deputy, performs for the circuit court the numerous statutory and customary duties of clerk.¹⁸⁷ From 1836 until 1853 the clerk of the circuit court was ex officio clerk of the probate court (abolished in 1853);¹⁸⁸ and from 1853 until 1873 he was ex officio clerk of the court of common pleas (abolished in 1873).¹⁸⁹

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes the process of the court.¹⁹⁰ Constables perform similar duties for the justices of the peace.¹⁹¹ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.¹⁹² The coroner performs these duties of the sheriff in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.¹⁹³ If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.¹⁹⁴ The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.¹⁹⁵ The probation officer

¹⁸⁷ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

¹⁸⁸ Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

¹⁸⁹ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁹⁰ 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. See the essay entitled "Sheriff."

¹⁹¹ 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081. 2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

¹⁹² 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁹³ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

¹⁹⁴ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

¹⁹⁵ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin* Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020. See the essay entitled "Prosecuting Attorney."

(appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹⁹⁶ The county director of public welfare performs duties of the probation officer when so directed by the court.¹⁹⁷ The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹⁹⁸ Two jury commissioners (annually appointed by the judge) prepare lists of names from which the grand juries and petit juries are drawn.¹⁹⁹ The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs minor duties assigned to him by the judge.²⁰⁰

Formerly a jury was used in coroner's inquests, but such juries were abolished in 1879. Under the present system, coroners act in a nonjudicial capacity when holding inquests.²⁰¹

LAW ENFORCEMENT

The constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdic-

¹⁹⁶ Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364.

¹⁹⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹⁹⁸ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84.

¹⁹⁹ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Crickmore v. State (1938), 213 Ind. 586, 12 N. E. (2d) 266; Johnson v. State (1938), 213 Ind. 659, 14 N. E. (2d) 96; Foreman v. State (1938), 214 Ind. 79, 14 N. E. (2d) 546.

²⁰⁰ Dunn v. State *ex rel.* Corydon (1933), 204 Ind. 390, 184 N. E. 535. *Opinions of the Attorney General of Indiana*, 1939 p. 312.

²⁰¹ Acts 1807, ch. 8, secs. 2-10. Acts 1817-18 (general), ch. 20, secs. 1-9. Rev. Laws 1824, ch. 100, secs. 10-22. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879; Burns 49-2905; Baldwin 5444. Stults v. Board of County Comrs., 168 Ind. 539, 81 N. E. 471.

tions,²⁰² and that all criminal prosecutions shall be carried on "in the name, and by the authority of, the state."²⁰³

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,²⁰⁴ the sheriff,²⁰⁵ or the coroner,²⁰⁶ cooperating with one another and with state and federal bureaus of law enforcement;²⁰⁷ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²⁰⁸

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.²⁰⁹ The grand jury consists of six members,²¹⁰ at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.²¹¹

²⁰² Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

²⁰³ Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

²⁰⁴ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459. *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²⁰⁵ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁰⁶ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁰⁷ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²⁰⁸ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

"An inquiry of a grand jury is not limited to the consideration of that which would be admissible on the trial of a cause. Any testimony which might legally affect the finding of or refusal to find an indictment is material on a grand jury investigation." *Maddox v. State* (1938), 213 Ind. 537, 12 N. E. (2d) 947.

²⁰⁹ Acts 1905; Burns 9-826; Baldwin 2122.

²¹⁰ Acts 1905; Burns 9-801; Baldwin 2097.

Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. *Adams v. State* (1938), 214 Ind. 603, 17 N. E. (2d) 84.

²¹¹ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State* (1938), 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950.

Endorsement by prosecuting attorney. *Taylor v. State* (1888), 113 Ind. 471, 16 N. E. 183; *Robinson v. State* (1912), 177 Ind. 263, 97 N. E. 929; *Hamer v. State* (1928), 200 Ind. 403, 163 N. E. 91.

Statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State* (1938), 213 Ind. 560, 12 N. E. (2d) 270.

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.²¹² He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder.²¹³

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner, both offices having existed in Jay County since its organization in 1836.²¹⁴ As law enforcement officers, they have identical powers and duties;²¹⁵ in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.²¹⁶ Writs of arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.²¹⁷ Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; and arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.²¹⁸ A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the state.²¹⁹

²¹² 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

²¹³ Acts 1905, 1927; Burns 9-908; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. *State ex rel. Freed v. Martin* Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910.

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." *State ex rel. Spencer v. Marion* Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²¹⁴ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1821-22, ch. 31, secs. 1, 2.

²¹⁵ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

²¹⁶ Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

²¹⁷ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5443.

²¹⁸ *Doering v. State* (1874), 49 Ind. 56, 19 Am. Rep. 669; *Hart v. State* (1924), 195 Ind. 384, 145 N. E. 449.

²¹⁹ Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

In the constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.²²⁰ The accused has the right to a public trial in the county in which the offense was committed; the right to be heard by himself and counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.²²¹ No person can be put in jeopardy twice for the same offense. In a criminal prosecution, no person can be compelled to testify against himself.²²² A person arrested or confined in jail must not be treated with unnecessary rigor.²²³ Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.²²⁴ Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.²²⁵ The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.²²⁶ In all criminal cases the jury has the right to determine both the law and the facts.²²⁷ The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.²²⁸ No conviction can "work corruption of blood or forfeiture of estate."²²⁹ The governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.²³⁰

The county jail is maintained by the county,²³¹ the

²²⁰ Const. 1851, art. 1, sec. 12.

²²¹ *Ibid.*, sec. 13.

²²² *Ibid.*, sec. 14.

²²³ *Ibid.*, sec. 15.

²²⁴ *Ibid.*, sec. 16.

²²⁵ *Ibid.*, sec. 17.

²²⁶ *Ibid.*, sec. 18.

²²⁷ *Ibid.*, sec. 19.

²²⁸ *Ibid.*, sec. 27.

²²⁹ *Ibid.*, sec. 30.

²³⁰ *Ibid.*, art. 5, sec. 17.

²³¹ 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

sheriff being responsible for its management.²³² Inspection or investigation is made by the grand jury at the beginning of each regular session,²³³ and by the board of commissioners every 3 months.²³⁴

FINANCE

APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.²³⁵ Before 1899 the board of commissioners performed the duties now performed by the county council.²³⁶

No money can be drawn from the county treasury not in pursuance of appropriation therefor,²³⁷ except in the following instances: (a) Money belonging to the state and commanded by law to be paid into the state treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which has been paid into the county treasury pursuant to public improvement assessments on persons or property of the county in territory less than the whole county; (e) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid in pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received from the state or federal governments for welfare assistance or public work projects;²³⁸ and (h) salaries fixed by law.²³⁹

Before the Thursday following the 1st Monday in August each year, the various officials of the county (including

²³² 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

²³³ 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

²³⁴ Acts 1909; Burns 13-1008; Baldwin 13460.

²³⁵ Acts 1899; Burns 26-515; Baldwin 5379. "Requirements for Spending Public Money,"

Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (Indianapolis, 1940), 8-14.

²³⁶ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

²³⁷ Acts 1899; Burns 26-515; Baldwin 5379.

²³⁸ Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

²³⁹ *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

Salaries fixed by judge of circuit court for bailiff and page. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the state during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the 1st Tuesday after the 1st Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least 2 separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.²⁴⁰

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on 2 separate days before passage.²⁴¹ Such additional

²⁴⁰ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.* (1905), 165 Ind. 262, 74 N. E. 1091.

The statutory provision requiring an ordinance for an appropriation to be read on 2 separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van Der Veer v. State ex rel. Herron* (1929), 97 Ind. App. 1, 165 N. E. 265.

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State* (1936), 214 Ind. 138, 14 N. E. (2d) 1007.

²⁴¹ Acts 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

appropriations must be approved by the state board of tax commissioners.²⁴²

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.²⁴³ It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.²⁴⁴

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.²⁴⁵

TAXATION

The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the constitution.²⁴⁶ The constitution provides that "The General

The council's determination of emergency is not conclusive on the courts. *State ex rel. Kautz v. Board of County Comrs.* (1933), 204 Ind. 484, 184 N. E. 780.

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1939 suppl., 64-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1939 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100.

²⁴² Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁴³ Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

²⁴⁴ Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

²⁴⁵ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. *Opinions of the Attorney General of Indiana, 1939* p. 312.

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. *Board of County Comrs. v. McGregor* (1909), 171 Ind. 634, 87 N. E. 1.

²⁴⁶ *State ex rel. Goodman v. Halter* (1897), 149 Ind. 292, 47 N. E. 665; *Dunn v. Indianapolis* (1935), 203 Ind. 630, 196 N. E. 528; *Miles v. Department of Treasury* (1935), 209 Ind. 172, 199 N. E. 372. "Taxation in Indiana the Last Forty-Eight Years," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939, (1939), 75-89.*

Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."²⁴⁷ This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.²⁴⁸ Exemptions are discussed hereinafter.

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

In each township having a population not exceeding 5,000 (all townships except Wayne), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²⁴⁹

A poll tax is assessed on every male inhabitant of the state between the ages of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.²⁵⁰ Poll tax exemptions are allowed to volunteer firemen²⁵¹ and former soldiers and sailors

²⁴⁷ Const. 1851, art. 10, sec. 1.

²⁴⁸ State Bd. of Tax Comrs. v. Jackson (1931), 293 U. S. 527, 75 L. Ed. 1248, 51 Supreme Court 540; Miles v. Department of Treasury (1935), 209 Ind. 172, 199 N. E. 372; Davis v. Sexton (1936), 210 Ind. 138, 200 N. E. 233.

²⁴⁹ Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. *Opinions of the Attorney General of Indiana*, 1939, p. 243.

²⁵⁰ Acts 1919; Burns 64-102; Baldwin 15515.

²⁵¹ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

receiving service-connected disability compensation.²⁵² Before 1919 the board of commissioners could grant poll tax exemptions because of inability to pay.²⁵³ The auditor certifies to the city officials the number of taxable polls therein²⁵⁴ and adds omitted polls to the tax duplicate.²⁵⁵ Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by state law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²⁵⁶

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the state board of tax commissioners.²⁵⁷ The state board prescribes rules and forms for the subordinate tax officials and instructs them concerning their duties.²⁵⁸ It makes original assessments of certain classes of railroad properties, telephone companies, and other public utilities,²⁵⁹

²⁵² Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

²⁵³ 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1936*, p. 83.

²⁵⁴ Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

²⁵⁵ Acts 1919; Burns 64-2102; Baldwin 15803.

²⁵⁶ Acts 1931; Burns 42-102 to 42-105; Baldwin 10499 to 10501, 10503.

²⁵⁷ Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners. See the authorities cited hereinafter under specific text statements.

²⁵⁸ Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, pp. 22-30, 53, 54, 102, 103, 123-139.

²⁵⁹ The state board of tax commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the state board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The state board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of 2 percent on their assessed value direct to the state department of treasury.

Except as to the car equipment companies, the assessment of the state board is certified

and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.²⁶⁰

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.²⁶¹

Assessment of real and personal property for county purposes also serves as the assessment for state, township, city, and town purposes.²⁶² Personal property is assessed each year as of the 1st day of March.²⁶³ Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.²⁶⁴ All taxable property, real and personal, is required to be assessed at the true cash value thereof.²⁶⁵ Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.²⁶⁶ Each township assessor

to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654. "State Board Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 14-21.

²⁶⁰ Acts 1919, 1920 Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1939 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

²⁶¹ Interview of May 18, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

²⁶² Acts 1919; Burns 64-2814; Baldwin 15877.

²⁶³ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

²⁶⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

²⁶⁵ Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1939 suppl., 64-1019b; Baldwin, 1937 suppl., 15685-2. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 54-85.

²⁶⁶ Acts 1919; Burns 64-401; Baldwin 15524.

calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.²⁶⁷ If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.²⁶⁸

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,²⁶⁹ county assessor,²⁷⁰ auditor,²⁷¹ or board of review;²⁷² and appeal from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.²⁷³

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the state board of tax commissioners for incompetency or neglect of duty.²⁷⁴

The board of review, after giving 2 weeks' notice, meets on the 1st Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners,

²⁶⁷ Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, December 20, 21, 22, 1939 (1940), 22-30, 53, 54, 102, 103, 123-139.

²⁶⁸ Acts 1919; Burns 64-610; Baldwin 15578.

²⁶⁹ Acts 1919; Burns 64-1025; Baldwin 15692.

²⁷⁰ Acts 1919; Burns 64-1102; Baldwin 15698.

²⁷¹ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²⁷² Acts 1919, 1920 (Spec. Sess.), Burns, 64-1201; Baldwin 15700.

²⁷³ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²⁷⁴ Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

reduces or increases valuations, equalizes valuations, corrects and completes the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.²⁷⁵ Any person dissatisfied with the decision of the board of review may appeal to the state board of tax commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the state board is the final assessment of such property.²⁷⁶

The county auditor, on or before March 1 each year makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.²⁷⁷

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.²⁷⁸ For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.²⁷⁹ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.²⁸⁰

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such lands should be described, and any change of improvements since March 1 of the previous year should be stated. If such person fails to furnish such list within 5 days after being called on, as notified to do, the assessor may make the list according to the best information he can

²⁷⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁷⁶ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁷⁷ Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

²⁷⁸ *Ibid.*

²⁷⁹ Acts 1919; Burns 64-1409; Baldwin 15746.

²⁸⁰ Acts 1921; Burns 64-519; Baldwin 14777.

obtain, and the auditor must add 25 percent to the assessor's valuation of any lands or improvements of such person which were not assessed for taxation the previous year. On or before the 1st Monday in June in each year, the assessor must make out and deliver to the auditor, in a book furnished by him, a return of all real estate so listed.²⁸¹

Reassessment of lots, lands, or improvements can be made only when authorized by the state board of tax commissioners. If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the state board for an order for reassessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for reassessment. The assessments mentioned in the next paragraph below may be made without an order from the state board. The last general reassessment of real estate in Indiana was made in 1932.²⁸²

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assesses any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.²⁸³ The county assessor,²⁸⁴ auditor,²⁸⁵ and board of review²⁸⁶ also have power to assess such omitted property after giving notice. The auditor makes

²⁸¹ Acts 1919; Burns 64-1008, 64-1009, 64-1013, 64-1015, 64-1016; Baldwin 15674, 15675, 15679, 15681, 15682. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 22-30, 53, 54, 102, 103, 123-139. See the following footnote.

²⁸² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 14-21. Interview of March 29, 1940 with Philip Zoercher, chairman of the state board of tax commissioners.

²⁸³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15635. Acts 1919; Burns 64-1025; Baldwin 15692.

²⁸⁴ Acts 1919; Burns 64-1102; Baldwin 15688.

²⁸⁵ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²⁸⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

assessments of any newly platted additions to any city or town.²⁸⁷ Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.²⁸⁸ The decision of the board of review in reviewing such assessment or in making an original assessment of omitted lots, lands, or improvements may be reviewed by the state board of tax commissioners in the manner provided for review of decisions concerning personal property, discussed above.²⁸⁹ From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.²⁹⁰

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the state board of tax commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order reassessment of all or part of the property in such township.²⁹¹

The state board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of reassessment for the whole state or for any of the counties or townships thereof. A hearing is held, after notice thereof, in each county in which the affected property is located. The board may then order reassessment.²⁹²

Any person may, before March 31 in any year, file with the state board of tax commissioners a petition for reassessment of his real estate. At the hearing, the petitioner must show cause for reassessment. Other taxpayers may be heard in opposition. The board may then order the requested

²⁸⁷ Acts 1919; Burns 64-1027; Baldwin 15691.

²⁸⁸ Acts 1919, 1929 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

²⁸⁹ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁹⁰ Acts 1919, 1927; Burns 64-2103; Baldwin 15604.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²⁹¹ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

²⁹² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

reassessment. This is the only method for obtaining reassessment of particular real estate.²⁹³

A petition for reassessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the state board of tax commissioners before March 31, in any year in which there is no general election of state, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order reassessment of all or part of the real estate in the township.²⁹⁴

Within 10 days after the valuation of real or personal property is determined by the board of review or state board of tax commissioners, the owner may appeal to the circuit court on questions of law concerning such valuation.²⁹⁵

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township; lands granted for the use of the common schools; real and personal property (including dormitories) actually used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations cemetery associations, and soldiers' and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the state for certain purposes; and certain annuities payable by religious

²⁹³ Acts 1919, 1923, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685(d).

²⁹⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

²⁹⁵ Acts 1927; Burns 64-1020; Baldwin 15686.

or charitable organizations.²⁹⁶ To obtain such exemptions, sworn statements must be filed with the auditor on or before the 1st day of March each year.²⁹⁷

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the 1st day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the 1st day of March and the 1st Monday in May a sworn statement in the form required by law.²⁹⁸

The county auditor, not later than September 1 each year, apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.²⁹⁹

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.³⁰⁰

Appeal from the action of the county council may be taken to the state board of tax commissioners. That board,

²⁹⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1939 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1939; Burns, 1939 suppl., 64-221; Baldwin, 1939 suppl., 15518-5. *Opinions of the Attorney General of Indiana, 1939*, p. 62.

Farms operated by colleges and hospitals. *Opinions of the Attorney General of Indiana, 1939*, p. 146.

Bridge across Ohio River. *Ibid.*, p. 294.

Totally disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 64-205 to 64-207; Baldwin 10986 to 10988.

²⁹⁷ Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

²⁹⁸ Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Opinions of the Attorney General of Indiana, 1939*, p. 123. "Mortgage Deductions," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939, (1939)*, 64-74.

Under the 1919 act, the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

²⁹⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

³⁰⁰ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question," is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the state board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.³⁰¹

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations"; (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.³⁰²

Except on authorization of the state board of tax commissioners, the total tax rate for all purposes cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.³⁰³

At least 2 days before the 2d Monday in September, each municipal corporation³⁰⁴ of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.³⁰⁵ The board of tax adjustment meets on the 2d Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.³⁰⁶ It is the duty of the board of tax adjustment to examine, revise,

³⁰¹ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

³⁰² Acts 1937; Burns, 1939 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

³⁰³ Acts 1937; Burns, 1939 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

³⁰⁴ The term "municipal corporation" includes counties, townships, cities, towns, school districts, sanitary districts, park districts, and all taxing units within the state. Acts 1937; Burns, 1939 suppl., 64-308; Baldwin, 1937 suppl., 15897-2.

³⁰⁵ Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

³⁰⁶ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the state board of tax commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The state board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.³⁰⁷

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies his action to each municipal corporation before October 6. Appeal to the state board of tax commissioners may be taken before October 16 by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the state board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, and not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The state board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.³⁰⁸

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.³⁰⁹

³⁰⁷ Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

³⁰⁸ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

³⁰⁹ Acts 1937; Burns, 1939 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the state board of tax commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the state board, and its decision thereon is final and conclusive.³¹⁰

Between the 1st Monday in July and the last day of December, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll tax, assessments of omitted properties, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the state board of tax commissioners. He numbers each township, city, and town in regular progression. On or before January 1 he delivers to the auditor of state a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.³¹¹

Property taxes for state, county, township, city, and town purposes are payable to the county treasurer in two equal installments on or before the 1st Monday in May and the 1st Monday in November, respectively, in the year following the year for which the property was assessed. If any installment is not paid when it becomes due, such installment becomes delinquent, and a penalty of 8 percent of such installment is added. An additional penalty of 5 percent is added to any tax for each year the tax remains unpaid after the 1st Monday in November of the year in which the delinquency accrued.³¹²

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may

³¹⁰ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

³¹¹ Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

³¹² Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1939 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the 2d Monday in April, after advertisement, but not until 15 months have elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser, and states when a tax deed may be obtained by him.³¹³

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within 2 years after the sale and at any time thereafter before a tax deed is issued. Such deed may be issued at any time between 2 and 4 years after the tax sale. The redeemer must pay to the treasurer the amount of the taxes, penalties, and interest for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within 6 months after the sale, 15 percent if redeemed 6 months to 1 year after the sale, or 25 percent if redeemed more than 1 year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of 6 percent per annum. No interest on such subsequent taxes can accrue later than 2½ years after the tax sale. The money so received by the

³¹³ Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1518, 64-1701 to 64-1705, 64-2001, 64-2201, 64-2203 to 64-2211; Baldwin 15772, 15778 to 15782, 15794, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807.

If a delinquent taxpayer has personalty in the county which is liable to sale to pay his taxes, he may enjoin the sale of his realty for such delinquent taxes until such personalty is exhausted. *Bland v. Union Cent. Life Ins. Co.* (1935), 209 Ind. 84, 198 N. E. 78; *Weaver v. Kauffman* (1914), 57 Ind. App. 59, 106 N. E. 398.

"Taxes are not a lien upon personal property. They are the personal obligation of the taxpayer, and become a lien only when the property is levied upon. The lien created by the levy is like the lien created by a levy upon execution. It is junior and inferior to prior existing liens." Held that a purchaser of personalty at a tax sale took title subject to a chattel mortgage recorded before the seizure to satisfy the tax. *Voigt v. Ludlow Typograph Co.* (1938), 213 Ind. 329, 12 N. E. (2d) 499.

treasurer is paid by him to the holder of the redeemed tax certificate.³¹⁴

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, interest, and the pro rata share of costs of sale, and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax sales and no sufficient bid as aforesaid has been made, the property will be sold at a later public tax sale to the highest bidder for cash (without minimum limitation); and in such cases where the aggregate amount of all delinquent taxes equal or exceeds the last assessed valuation of the real estate, the successful purchaser is entitled to receive immediately a tax deed conveying the property free and clear of all taxes which became delinquent at least 15 months before the last sale.³¹⁵

EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax³¹⁶ (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the state board of tax commissioners.³¹⁷

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the state board of tax commissioners, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the

³¹⁴ Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2493; Baldwin 15819, 15832, 15811. Interview of January 22, 1940 with E. P. Brennan, state examiner.

Infants, idiots, and insane persons may redeem their lands within 2 years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

³¹⁵ Acts 1932 (Spec. Sess.); Burns 64-1509; Baldwin 15752. Acts 1919; Burns 64-1516, 64-2204; Baldwin 15759, 15809. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Opinions of the Attorney General of Indiana, 1938*, p. 255; 1939, p. 211.

³¹⁶ *Lutz v. Arnold* (1935), 208 Ind. 480, 193 N. E. 840.

³¹⁷ Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615. *Opinions of the Attorney General of Indiana, 1939*, p. 252.

transfer.³¹⁸ The appraiser makes his report in duplicate, one copy to the court and one to the state board of tax commissioners.³¹⁹ The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the state board; and no final accounting of an estate is made until such receipt is countersigned by that board.³²⁰ The county treasurer must report quarterly to the auditor of state all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the treasurer of state.³²¹ When directed by the court to do so, the prosecuting attorney sues to collect the tax.³²²

The intangible tax³²³ is a stamp tax on notes, stocks, bonds, and other evidence of property interests or obligations for payment of money. This tax is administered by the county assessor³²⁴ and treasurer, under the supervision of the state board of tax commissioners. Stamps are issued by the state board and sold by the county treasurer.³²⁵ The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.³²⁶ If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located. Omitted property may be assessed by any officer of the county having authority under the general taxing laws to assess omitted property or

³¹⁸ Acts 1931, 1933; Burns 6-2408; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945. *Opinions of the Attorney General of Indiana, 1939*, p. 326. "Inheritance Tax," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 32-39.

³¹⁹ Acts 1931; Burns 6-2410; Baldwin 15948.

³²⁰ Acts 1931; Burns 6-2413; Baldwin 15951.

³²¹ Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. *Opinions of the Attorney General of Indiana, 1939*, p. 88.

³²² Acts 1931; Burns 6-2415; Baldwin 15953.

³²³ The intangible tax is an excise tax. *Lutz v. Arnold* (1935), 208 Ind. 480, 193 N. E.

³²⁴ Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1939 suppl., 64-906; Baldwin, 1935 suppl., 15904. "Valuation of Intangibles," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 39-53.

Mortgage which does not create a personal liability is subject to intangible tax. *Opinions of the Attorney General of Indiana, 1939*, p. 222.

³²⁵ Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

³²⁶ Acts 1933; Burns 64-918; Baldwin 15916.

by the state board of tax commissioners.³²⁷ In case of non-payment, suit for collection may be brought by the prosecuting attorney or the attorney general.³²⁸

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.³²⁹ The money so collected constitutes a fund known as the "dog fund," and is used to pay for damage to or loss of livestock caused by dogs or rabies. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the 1st Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.³³⁰

The clerk of the circuit court issues licenses for marriages,³³¹ physicians, surgeons,³³² midwives,³³³ osteopaths,³³⁴

³²⁷ Acts 1933, 1935; Burns, 1939 suppl., 64-915; Baldwin, 1935 suppl., 15913.

³²⁸ Acts 1933; Burns 64-921; Baldwin 15919.

³²⁹ Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

³³⁰ Acts 1937; Burns, 1939 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

Dog tax is for protection of property, not to provide revenue for public purposes. Excess funds in the county must be paid to the auditor of state in accordance with the 1937 law, not to schools under the 1929 law. *Finerty v. State ex rel. School City of Gary* (1938), 213 Ind. 470, 12 N. E. (2d) 941.

³³¹ Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852, Acts 1939; Burns, 1939 suppl., 44-201; Baldwin, 1939 suppl., 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Injunction to prevent illegal issuance of license. *Sweigart v. State* (1938), 213 Ind. 157 12 N. E. (2d) 134.

Common-law marriage. *Young v. General Baking Co.* (1938), 104 Ind. App. 658, 12 N. E. (2d) 1016.

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington* (1938), 213 Ind. 347, 12 N. E. (2d) 758.

³³² Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

³³³ Acts 1897; Burns 63-1309; Baldwin 10709.

³³⁴ Acts 1901; Burns 63-1316; Baldwin 10716.

chiropractors, drugless healers,³³⁵ dentists,³³⁶ optometrists,³³⁷ hunting, trapping, fishing,³³⁸ poultry dealers,³³⁹ and junk dealers.³⁴⁰ He registers certificates of trained nurses.³⁴¹ Formerly he issued liquor licenses,³⁴² brokers' licenses,³⁴³ licenses for veterinarians,³⁴⁴ stallions,³⁴⁵ and petty money lenders,³⁴⁶ and kept a register of certificates of agents of foreign insurance companies.³⁴⁷

The judge of the circuit court has authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.³⁴⁸ The sheriff issues licenses for the retail sale of pistols.³⁴⁹

³³⁵ Acts 1927; Burns 63-1312; Baldwin 10713.

³³⁶ Acts 1899, ch. 211, secs. 5, 7 to 11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

³³⁷ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

³³⁸ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

³³⁹ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

³⁴⁰ Acts 1905; Burns 42-703; Baldwin 10462.

³⁴¹ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

³⁴² This duty existed from the organization of the county until 1841 and from 1917 to 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Acts 1917, ch. 4, secs. 6, 7, 12. Acts 1925, ch. 48, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

³⁴³ Acts 1840-41 (general), ch. 5, sec. 18.

³⁴⁴ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

³⁴⁵ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

³⁴⁶ Acts 1913, ch. 167, secs. 1 to 4 (repealed by Acts 1917, ch. 125, sec. 6).

³⁴⁷ Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

³⁴⁸ Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5. *Opinions of the Attorney General of Indiana, 1937*, p. 242.

³⁴⁹ Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

The county auditor issues licenses for peddlers, shows, theaters,³⁵⁰ transient merchants,³⁵¹ public warehouses,³⁵² and ferries.³⁵³ He issued liquor licenses before 1917.³⁵⁴ The board of commissioners authorizes the issuance of ferry licenses,³⁵⁵ and before 1917 authorized the issuance of liquor licenses.³⁵⁶

FEES

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon

³⁵⁰ Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

³⁵¹ Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

³⁵² Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

³⁵³ Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 17, secs. 1-23. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

³⁵⁴ Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1855, ch. 105, secs. 4-8; ch. 106, secs. 1, 2. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

³⁵⁵ Acts 1807, ch. 33 (misnumbered 31), secs. 1, 6; ch. 51, sec. 14. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

³⁵⁶ Acts 1807, ch. 17, secs. 1, 4. Acts 1813, ch. 3, sec. 2. Acts 1817-18 (general), ch. 47, secs. 1, 2. Rev. Stat. 1838, ch. 105, secs. 1-10. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 105, secs. 4-8; ch. 106, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. The officer cannot draw any salary while illegally withholding fees.³⁵⁷

County officials may charge and collect only such fees as are allowed by statute.³⁵⁸ If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.³⁵⁹ If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;³⁶⁰ and if he pays over fees which he is entitled to retain, he may sue to recover the same.³⁶¹

All officers are required to keep complete records of all fees received from any source whatever. Such records are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.³⁶²

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.³⁶³ The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.³⁶⁴

³⁵⁷ Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. Keifer v. Summers (1894), 137 Ind. 106, 35 N. E. 1103; Applegate v. State *ex rel.* Pettijohn (1933), 205 Ind. 122, 185 N. E. 911; Board of County Comrs. v. Lewis (1924), 81 Ind. App. 601, 144 N. E. 623.

³⁵⁸ Noble v. Board of County Comrs. (1885), 101 Ind. 127; Legler v. Paine (1896), 147 Ind. 181, 45 N. E. 604.

³⁵⁹ State *ex rel.* Board of County Comrs. v. Williams (1906), 39 Ind. App. 376, 77 N. E. 1137.

³⁶⁰ Acts 1883; Burns 49-142; Baldwin 13094. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

³⁶¹ Board of County Comrs. v. Crone (1905), 36 Ind. App. 283, 75 N. E. 826.

³⁶² Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13864.

³⁶³ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

³⁶⁴ Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

FUNDS RECEIVED FROM THE STATE

The counties receive from the state a portion of the funds in the motor vehicle highway account of the state. This account is composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs.³⁶⁵ The portion allotted to the counties is distributed on the basis of vehicular miles of county roads in each county as compared with the total in all counties. The 1937 law recites that there are 48,536 miles in Jay County and 4,536,856 miles in all of the counties, but provision is made for a recount by the state highway commission and a change in allocation based thereon.³⁶⁶ Such funds are used by the county for construction and maintenance of county roads; and 20 percent of such funds may be used to pay off outstanding county unit road bonds.³⁶⁷

The counties receive from the state a portion of the license fees on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for licenses with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.³⁶⁸

Each county receives from the state, as reimbursement, about 81 percent of the money spent by the county for welfare assistance.³⁶⁹

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the township, city, and town taxing units within the county, on a basis of valuation of the real property in each unit.³⁷⁰ School funds are discussed hereinafter under the heading "Education."

³⁶⁵ Acts 1937; Burns, 1939 suppl., 36-2801; Baldwin, 1937 suppl., 8695-1.

³⁶⁶ Acts 1937; Burns, 1939 suppl., 36-2808; Baldwin, 1937 suppl., 8695-8.

³⁶⁷ Acts 1937, 1939; Burns, 1939 suppl., 36-2804 to 36-2806; Baldwin, 1939 suppl., 8695-4; Baldwin, 1937 suppl., 8695, 8695-6.

³⁶⁸ Acts 1935, 1937, 1939; Burns, 1939 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40(f).

³⁶⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. Interview of March 31, 1939 with Frank G. Thompson, Indiana State Auditor.

³⁷⁰ Acts 1933; Burns 64-922; Baldwin 15920.

CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least 5 days after the docketing of the claim and 3 days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.³⁷¹ The board cannot allow a claim that is previously disallowed.³⁷²

A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.³⁷³ A claim on a contract for work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.³⁷⁴ A claim based on a judgment or order of a court must be accompanied by a certified copy of such judgment or order.³⁷⁵

For the amount allowed by the board of commissioners, the auditor, after appropriation by the county council, issues a warrant which is countersigned by the treasurer and paid by the treasurer or a public depository designated thereon by him.³⁷⁶ An allowance not called for within 5 years may be canceled.³⁷⁷ Preference in payment is given to claims for money advanced by any county officer for the use of the county pursuant to provisions of law or of any order of the

³⁷¹ Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5256. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

³⁷² Myers v. Gibson (1899), 152 Ind. 500, 53 N. E. 646.

³⁷³ Acts 1899; Burns 26-538; Baldwin 5403.

³⁷⁴ Acts 1899; Burns 26-539; Baldwin 5404.

³⁷⁵ Acts 1911; Burns 26-814; Baldwin 5265.

³⁷⁶ Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁷⁷ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

board.³⁷⁸ However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.³⁷⁹

A person feeling aggrieved by any decision of the board on a claim may appeal to the circuit court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.³⁸⁰ No complaint other than the claim (including certificates and exhibits, if any) presented to the board is required on appeal.³⁸¹ If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.³⁸²

In pursuance of appropriations by the county council,³⁸³ the circuit court may make allowances against the county for expense of administration of justice.³⁸⁴ Such allowances include compensation of witnesses,³⁸⁵ jurors,³⁸⁶ master commissioners,³⁸⁷ sheriff,³⁸⁸ bailiffs,³⁸⁹ court reporter,³⁹⁰ page,³⁹¹ and attorneys appointed to represent poor persons.³⁹²

³⁷⁸ 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

³⁷⁹ Waymire v. Powell (1886), 105 Ind. 328, 4 N. E. 886.

³⁸⁰ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

³⁸¹ Board of County Comrs. v. Wertz (1887), 112 Ind. 268, 13 N. E. 874.

³⁸² Western Constr. Co. v. Board of County Comrs. (1912), 178 Ind. 684, 98 N. E. 347.

³⁸³ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

³⁸⁴ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

³⁸⁵ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

³⁸⁶ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

³⁸⁷ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

³⁸⁸ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

³⁸⁹ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496.

Opinions of the Attorney General of Indiana, 1939, p. 312.

³⁹⁰ Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

³⁹¹ *Opinions of the Attorney General of Indiana, 1939, p. 312.*

³⁹² Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939, p. 351.*

Within 10 days after adjournment of the session of the board of commissioners or of the court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until 3 days after such publication.³⁹³

CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.³⁹⁴

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.³⁹⁵ The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies. The commission of a depository may be revoked by the board at any time.³⁹⁶ The resignation of a depository becomes effective 30 days after notice thereof to the board.³⁹⁷ Monthly statements are furnished by the depository to the board on or before the 5th day of each month, and are preserved in the office of the board.³⁹⁸ All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the 5th day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.³⁹⁹ The treasurer deposits all redeemed warrants quarterly with the auditor.⁴⁰⁰

³⁹³ Acts 1899; Burns 25-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

³⁹⁴ Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁹⁵ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

³⁹⁶ Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-

57.

³⁹⁷ Acts 1937; Burns, 1939 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

³⁹⁸ Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

³⁹⁹ Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. *Opinions of the Attorney General of Indiana, 1939*, p. 247.

⁴⁰⁰ 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of May 18, 1939 with E.

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.⁴⁰¹ Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.⁴⁰² The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.⁴⁰³ Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.⁴⁰⁴

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, the auditor issues his warrant. But a warrant may be issued to pay a judgment, or for insanity inquests, salaries, management of the school funds, or for other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.⁴⁰⁵ Warrants not called for within 5 years after the allowance of the claims on which they were drawn may be canceled by the board of commissioners, if not called for after publication of notice.⁴⁰⁶

Warrants drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of state and township funds. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience

⁴⁰¹ Acts 1899; Burns 26-544; Baldwin 5459.

⁴⁰² 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin

13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

⁴⁰³ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

⁴⁰⁴ Acts 1909; Burns 60-215; Baldwin 13866.

⁴⁰⁵ Acts 1857; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

⁴⁰⁶ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.⁴⁰⁷ The treasurer must deduct any delinquent taxes owing by the payee.⁴⁰⁸ If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.⁴⁰⁹ Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.⁴¹⁰ When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.⁴¹¹

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.⁴¹² The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.⁴¹³ At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.⁴¹⁴

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.⁴¹⁵

⁴⁰⁷ 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

⁴⁰⁸ Acts 1919; Burns 64-1506; Baldwin 15768.

⁴⁰⁹ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

⁴¹⁰ 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

⁴¹¹ 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

⁴¹² Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁴¹³ 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

⁴¹⁴ Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

⁴¹⁵ 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.⁴¹⁶ The treasurer makes complete settlements with the board of commissioners at its January session each year.⁴¹⁷ Settlements by the board of commissioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.⁴¹⁸

All taxes collected by the treasurer must be deposited in the depository as one fund, except when otherwise provided by law. Semiannually the treasurer settles with the state and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when requested by the proper officer is made to the auditor and a warrant is drawn by him.⁴¹⁹

From time to time without notice, the books and accounts of county officers are audited by the state examiner. Before 1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.⁴²⁰

PUBLIC DEBT

The constitution provides that the total amount of the county debt shall not exceed 2 percent of the value of the

⁴¹⁶ Acts 1899; Burns 26-546; Baldwin 5411.

⁴¹⁷ Acts 1899; Burns 26-531; Baldwin 5395.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The state board of accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Interview of May 18, 1939 with E. P. Brennan, state examiner.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

⁴¹⁸ Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

⁴¹⁹ Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

⁴²⁰ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

Acts 1897; Burns 26-626; Baldwin 5237. 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1903, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862. *Opinions of the Attorney General of Indiana, 1929*, p. 134. Interview of May 18, 1939 with E. P. Brennan, state examiner.

taxable property therein,⁴²¹ and a statute provides that such shall not exceed 2 percent of the taxable property less the total of all mortgage exemptions.⁴²²

The borrowing of money for the county must be authorized by ordinance of the county council.⁴²³ The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.⁴²⁴ The obligations may bear interest at a rate not exceeding 6 percent per annum. If the interest rate exceeds 5 percent the issuance must be approved by the state board of tax commissioners.⁴²⁵ The council may provide for maturities at any time not exceeding 52 years from issuance.⁴²⁶

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of the bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified to the state board of tax commissioners for hearing and disposition.⁴²⁷

Temporary loans may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.⁴²⁸

The county council must make a levy of not less than one-tenth of 1 percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in those bonds or other county securities, and shall constitute

⁴²¹ Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Ibid.*

Bonds for construction of an interstate bridge, payable only from proceeds of bridge, held not a debt within the meaning of this constitutional provision. Same ruling as to costs of highway maintenance. *Bennett v. Spencer County Bridge Commission* (1938), 213 Ind. 520, 13 N. E. (2d) 547.

⁴²² Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

⁴²³ *Ibid.*

⁴²⁴ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

⁴²⁵ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

⁴²⁶ Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

⁴²⁷ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

⁴²⁸ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

a sinking fund for the ultimate liquidation of such debt.⁴²⁹ The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.⁴³⁰

ELECTIONS

In Indiana there are three types of elections: Primary; special; and general. Primary elections are for the purpose of nominating party candidates for all offices (other than those to be voted on by the entire electorate of the state) and electing precinct committeemen and delegates to state conventions of political parties. The primary election is mandatory for each political party in the state casting for its candidate for secretary of state 10 percent or more of the aggregate vote cast for all candidates for secretary of state in the last general election.⁴³¹ Special elections are held to fill vacancies in the United States Congress, the Indiana General Assembly, in offices required to be filled by special election, and in all offices in case of a tie vote. They are ordered by the governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.⁴³² The general election, held biennially, is for the purpose of filling all existing vacancies in office, and all offices the terms of which will expire before the next general election thereafter.⁴³³

Primary elections are held on the 1st Tuesday after the 1st Monday in May preceding the general elections.⁴³⁴ They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and two persons (from the two major political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary

⁴²⁹ 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

⁴³⁰ 1 Rev. Stat. 1852; Burns 26-1007; Baldwin 5246.

⁴³¹ Acts 1915; Burns 29-501; Baldwin 7187.

⁴³² Acts 1881 (Spec. Sess.); Burns 29-1701 to 29-1704; Baldwin 7246 to 7249.

⁴³³ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁴³⁴ Acts 1915, 1917; Burns 29-508; Baldwin 7194.

elections,⁴³⁵ and serves as the county board of election commissioners at the next general election.⁴³⁶

Primary elections are conducted by the following officials for each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one poll book holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote for secretary of state at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and poll book holders are appointed in the manner in which they are appointed for general elections.⁴³⁷

General elections are held biennially on the 1st Tuesday after the 1st Monday in November of even-numbered years.⁴³⁸ County officers elected by the people are county commissioners, county councilmen, judge and clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor. These elections are held under the supervision of the county board of election commissioners, which prepares and distributes all ballots used in the county (except for town elections).⁴³⁹

For a general election the county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the general election. The election judges, poll clerks, and election sheriffs must

⁴³⁵ Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State *ex rel.* Marion County Democratic Committee v. Marion Superior Court (1938), 214 Ind. 322, 15 N. E. (2d) 379.

⁴³⁶ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

⁴³⁷ Acts 1915, 1917; Burns 29-505, 29-507; Baldwin 7191, 7193.

⁴³⁸ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁴³⁹ Acts 1889; Burns 29-1002; Baldwin 7109. See the essay entitled "County Board of Election Commissioners."

be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least 1 year, or resident householders therein for at least 2 years preceding the election, unless persons having these qualifications are not available. The inspector of elections is nominated by the county chairman of the party casting the highest number of votes in the county in the last election for secretary of state. The township trustee serves as the election inspector in the precinct in which he resides. Each party may appoint one challenger and one poll book holder in each precinct to represent that party in the challenge of voters.⁴⁴⁰

The constitution provides that all elections shall be "free and equal," prescribes the length of residence required of an elector, designates the time of holding elections, and gives the legislature power to provide for the registration of voters.⁴⁴¹

All voters at general and special elections must be duly registered for voting;⁴⁴² must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.⁴⁴³ Soldiers, sailors, and marines acquire no residence in the state for voting purposes by virtue of being stationed therein.⁴⁴⁴ The registration officer (the clerk of the circuit court ex officio) conducts the registration of voters.⁴⁴⁵

⁴⁴⁰ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁴⁴¹ Const. 1851, art. 2, secs. 1, 2, 14.

⁴⁴² Acts 1933; Burns 29-301; Baldwin 7299. See the essay entitled "Registration Officer."

⁴⁴³ U. S. Const., amend. 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1881 (Spec. Sess.); Burns 29-703; Baldwin 7083. *Kelso v. Cook* (1916), 184 Ind. 173, 110 N. E. 987.

⁴⁴⁴ Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085.

⁴⁴⁵ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;⁴⁴⁶ providing rooms for polling places and equipping them with voting booths and ballot boxes;⁴⁴⁷ and the purchase of voting machines (permissive) for the several precincts.⁴⁴⁸

Any qualified and registered elector of the county, who by reason of the nature of his business is absent or expects to be absent from the county on the day of holding an election, may vote by an absent-voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.⁴⁴⁹

The board of canvassers (consisting of the election commissioners,⁴⁵⁰ with the clerk of the circuit court acting as clerk)⁴⁵¹ tabulates and compiles the election returns of the county, and files all data, canvass sheets, certificates, poll books, and tally papers in the office of the clerk, and certifies the candidates elected.⁴⁵²

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 12 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.⁴⁵³

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth

⁴⁴⁶ Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-961; Baldwin 7091.

⁴⁴⁷ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

⁴⁴⁸ Acts 1939; Burns, 1939 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

⁴⁴⁹ Acts 1935; Burns, 1939 suppl., 29-2601 to 29-2623; Baldwin, 1935 suppl., 7348-1 to 7348-23.

⁴⁵⁰ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁴⁵¹ Acts 1905; Burns 29-1402; Baldwin 7378.

⁴⁵² Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Traylor* (1938), 214 Ind. 542. 16 N. E. (2d) 845.

⁴⁵³ Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1915, 1917, 1925, 1929; Burns 29-511; Baldwin 7196. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.⁴⁵⁴

EDUCATION

FUNDS

The public school system of Indiana was provided for by the Ordinance of 1787.⁴⁵⁵ In 1816 the Congressional Township fund was provided for the development of the public school system. The fund was composed of the moneys arising from the sale and leasing of lands of section 16 of each Congressional Township.⁴⁵⁶ This fund was not handled efficiently before 1851.⁴⁵⁷ Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.⁴⁵⁸ It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any effective attention from the state.⁴⁵⁹ The school law of 1865 brought the most complete revision.⁴⁶⁰ The constitution provides that the general assembly shall encourage and provide for a general and uniform system of common schools.⁴⁶¹

The Constitution of 1851 established the common school fund composed of: The Congressional Township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the state for want of heirs; taxes on the property of corporations which may be assessed by the general assembly for common school purposes; all lands granted to the state without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).⁴⁶²

⁴⁵⁴ Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

⁴⁵⁵ Ordinance of 1787, art. 3; *U. S. Statutes at Large*, 1:52 note.

⁴⁵⁶ *U. S. Statutes at Large*, 3:289 (law of 1816).

⁴⁵⁷ Logan Esarey, *History of Indiana* (1924), 2:679, sec. 122.

⁴⁵⁸ Acts 1848-49 (general), ch. 116, sec. 1. Fassett A. Cotton, *Education in Indiana* (Bluffton, Indiana, 1934), 10.

⁴⁵⁹ Const. 1851, art. 8. 1 Rev. Stat. 1852, ch. 98.

⁴⁶⁰ Acts 1865; Burns 28-101; Baldwin 6499.

⁴⁶¹ Const. 1851, art. 8, sec. 1.

⁴⁶² Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

The Constitution of 1851 further provided that the principal of the common school fund must remain a perpetual fund and be invested so that it may increase but never diminish; and that the interest earned by the fund may be expended for the support of the common schools and for no other purpose. The general assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.⁴⁶³

The school funds managed by the county are kept by the county auditor in three separate funds, (a) the common school fund, (b) the Congressional Township fund, and (c) the permanent endowment fund of Indiana University. The latter fund was derived from a tax levy of one-half of 1 cent on each \$100 of taxable property for the years 1883 through 1895, and was distributed among the several counties according to population. Loans from these three funds are made by the county school fund board. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest. The interest on the common school fund and the Congressional Township school fund is paid into the state treasury and is thereafter distributed among the several counties on the basis of average daily attendance of school children therein, to be used for the support of the common schools. Jay County (including Dunkirk, Portland, and Redkey) received \$5,449.84 for the school year 1938-39 from this source. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer, and he pays it to the trustees of Indiana University.⁴⁶⁴

The interest on the school funds aforesaid is supplemented by other funds provided by the general assembly for the public schools. From the general fund, the state supplies the county

⁴⁶³ Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907; Burns 28-102; Baldwin 6500.

⁴⁶⁴ Const. 1851, art. 8, secs. 2-7. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865; Burns 28-104, 28-105; Baldwin 6499-1, 6511. Acts 1865, 1873, 1897; Burns 28-1008; Baldwin 6485. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. Michener (1889), 120 Ind. 442, 22 N. E. 339. "Report of the State Superintendent of Public Instruction, 1938-1939," *Year Book of the State of Indiana for the Year 1939* (1940), 262, 264, 279. See the essay entitled "County School Fund Board."

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908, to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower (1902), 159 Ind. 139, 64 N. E. 614.

with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades 1 to 8, and for each unit of 25 pupils in average daily attendance in grades 9 to 12. This fund is known as the "school tuition support fund."⁴⁶⁵ The total amount received by Jay County (including Dunkirk, Portland, and Redkey) from this source during the school year 1938-39 was \$96,600.⁴⁶⁶

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.⁴⁶⁷ Jay County (including Dunkirk, Portland, and Redkey) received \$4,634.44 from this source for the school year 1938-39.⁴⁶⁸

A state stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the state for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several counties. One-fourth of the amount received by each county is retained for its general fund, and the remainder is distributed to the school taxing units of the county on the basis of assessed valuation of real property in the several units.⁴⁶⁹ For the school year 1938-39 Jay County and the school taxing units therein received \$2,583.50 from this source.⁴⁷⁰

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a 7 cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.⁴⁷¹ Whenever any township trustee or board of trustees of any school town or school city ascertains

⁴⁶⁵ Acts 1933, 1935, 1937; Burns, 1939 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502 to 6504.

⁴⁶⁶ "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 262, 264, 279.

⁴⁶⁷ Acts 1935, 1939; Burns, 1939 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

⁴⁶⁸ "Reports of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 262, 264, 279.

⁴⁶⁹ Acts 1933; Burns 64-922; Baldwin 15920.

⁴⁷⁰ "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 262, 264, 279.

⁴⁷¹ Acts 1933; Burns 28-901; Baldwin 6431.

that there is an insufficient amount of revenue to maintain the school for a term not to exceed 8 months, such trustee or board must file a certificate with the county superintendent of schools stating its needs.⁴⁷² The county superintendent of schools forwards the certificate to the state board of education,⁴⁷³ and this board and the state board of accounts must examine the certificate and decide on the amount to be allotted to the school unit.⁴⁷⁴ The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.⁴⁷⁵ Jay County received \$2,367.14 from this fund for the school year 1937-38, and received nothing from that fund for the school year 1938-39.⁴⁷⁶

The school cities, towns, and townships may levy property taxes and poll taxes⁴⁷⁷ for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;⁴⁷⁸ to enforce compulsory education and keep poor children in school;⁴⁷⁹ to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;⁴⁸⁰ establishment of vocational schools;⁴⁸¹ and for the retirement of school bonds.⁴⁸²

ORGANIZATION

There are two major types of school organizations, (a) county schools and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools

⁴⁷² Acts 1933; Burns 28-903; Baldwin 6433.

⁴⁷³ Acts 1933; Burns 28-904; Baldwin 6434.

⁴⁷⁴ Acts 1933; Burns 28-905; Baldwin 6435.

⁴⁷⁵ Acts 1933 1935; Burns, 1939 suppl., 28-907; Baldwin, 1935 suppl., 6437. *Opinions of the Attorney General of Indiana, 1939*, p. 197.

⁴⁷⁶ "Report of the State Superintendent of Public Instruction, 1937-1938," *Year Book of the State of Indiana for the Year 1938* (1939), 408, 410, 425. "Report of the State Superintendent of Public Instruction, 1938-1939," *loc. cit.*, 262, 264, 279.

⁴⁷⁷ Acts 1919; Burns 64-101; Baldwin 15514.

⁴⁷⁸ Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

⁴⁷⁹ Acts 1921; Burns 28-513; Baldwin 6706.

⁴⁸⁰ Acts 1913; Burns 28-3421; Baldwin 6468.

⁴⁸¹ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁸² Acts 1937; Burns, 1939 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

are operated in a similar manner by school boards composed of three members appointed by the common council of the town or city.⁴⁸³

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustee in the supervision of the township schools, and carries out all orders and instructions of the state superintendent of public instruction and the state board of education. He has no supervision of city or town schools.⁴⁸⁴

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.⁴⁸⁵

The local school systems are closely supervised by the state board of education, with the state superintendent of public instruction as its administrative head.⁴⁸⁶ One of the most important functions of the state board of education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licensee.⁴⁸⁷ The state board of education provides for the inspection of schools,⁴⁸⁸ establishes a uniform schedule of textbooks,⁴⁸⁹ and prescribes an accredited course of instruction for teacher training.⁴⁹⁰

Except as otherwise provided hereinafter, every child between the ages of 7 and 16 years must attend "public school

⁴⁸³ Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

⁴⁸⁴ Acts 1899, 1911, 1913; Burns 28-702, 28-704, 28-705; Baldwin 5931, 5938, 5940. *State ex rel. Nebeker v. Sutton* (1884), 99 Ind. 300; *State ex rel. Drummond v. Dillon* (1890), 125 Ind. 65, 25 N. E. 135. See the essay entitled "County Superintendent of Schools."

⁴⁸⁵ Acts 1873, 1877; Burns 28-801; Baldwin 5963. Interview of July 26, 1939 with Grover Van Duyn, assistant state superintendent of public instruction. See the essay entitled "County Board of Education."

⁴⁸⁶ Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁸⁷ Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928.

⁴⁸⁸ Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5939.

⁴⁸⁹ Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675.

⁴⁹⁰ Acts 1923; Burns 28-4205; Baldwin 5916.

or other school taught in the English language which is open to the inspection of local and state attendance and school officers"; and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for 1 year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children who are deaf or blind may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind, respectively. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of this law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the state correctional schools (Indiana Boys' School and Industrial Schools for Girls).⁴⁹¹

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them, such schools must provide rights, privileges, and advantages equal to those in the other schools in the corporation. If no such school is available, colored children must attend the public schools with white children.⁴⁹² Colored schools are represented on the state board of education by the required presence of one member of the negro race.⁴⁹³

In 1913 the general assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the state board of education, and are maintained by the regular school funds or by a special tax levy.⁴⁹⁴ Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.⁴⁹⁵

⁴⁹¹ Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759. Acts 1903, 1905, 1907, 1913; Burns 9-2814; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6698. *Opinions of the Attorney General of Indiana, 1930, p. 322.*

⁴⁹² Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1939 suppl., 23-5104; Baldwin, 1935 suppl., 6012.

⁴⁹³ Acts 1939; Burns, 1939 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁹⁴ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁹⁵ Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than $1\frac{1}{2}$ miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more than one-half mile outside the corporate limits of the town or city in which the consolidated school is located.⁴⁹⁶

PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.⁴⁹⁷ Public health services are administered in the county by a part-time county health officer and a full-time public health nurse. They are appointed by the board of commissioners, subject to approval by the state board of health.⁴⁹⁸ The state board is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.⁴⁹⁹

The educational facilities offered by the state board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring information on public health. These facilities may be obtained from the bureau of health and

⁴⁹⁶ Acts 1917, 1921; Burns 28-1220, 28-1228 Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6208, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1939 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1939 suppl., 28-2803; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927; Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1939 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. *Opinions of the Attorney General of Indiana, 1939* pp. 25, 74, 91, 366.

⁴⁹⁷ Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

⁴⁹⁸ Acts 1935; Burns, 1939 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6.

See the essays entitled "County Health Officer" and "Public Health Nurse."

⁴⁹⁹ Acts 1905; Burns 35-302; Baldwin 8394.

physical education, the bureau of communicable diseases, and the bureau of venereal diseases.⁵⁰⁰

The state board of health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.⁵⁰¹

Health laws require that public water supplies must be inspected by the state board of health;⁵⁰² that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;⁵⁰³ that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;⁵⁰⁴ that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.⁵⁰⁵

Food and drug products are inspected in the state laboratory for adulteration or misbranding.⁵⁰⁶ Dairy products are tested for butter fat content and weight.⁵⁰⁷

Contagious diseases must be reported to the state board and properly quarantined by the health officer.⁵⁰⁸ All cases of tuberculosis⁵⁰⁹ and leprosy must be reported to the state board of health as soon as they are diagnosed. The state board has jurisdiction to direct the care and disposition of lepers.⁵¹⁰

All birth certificates must show that the attendant at such birth took the proper precautions to prevent ophthalmia neonatorum (the disease causing infant blindness).⁵¹¹ If an infant's eyes show any sign of infection within 2 weeks after

⁵⁰⁰ Acts 1891, 1909; Burns 35-106; Baldwin 8391. Interview of August 17, 1939 with Dr. Verne K. Harvey, director of the state board of health.

⁵⁰¹ Acts 1907, 1919, 1929, 1935, 1939; Burns, 1939 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

⁵⁰² Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

⁵⁰³ Acts 1909; Burns 35-1001; Baldwin 8504.

⁵⁰⁴ Acts 1917; Burns 35-1801; Baldwin 8563.

⁵⁰⁵ Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

⁵⁰⁶ Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts

1939, ch. 38.

⁵⁰⁷ Acts 1913; Burns 35-1301; Baldwin 8455.

⁵⁰⁸ Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

⁵⁰⁹ Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

⁵¹⁰ Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

⁵¹¹ Acts 1911; Burns 35-901; Baldwin 8558.

the date of birth, a written report thereof must be made to the health officer within 6 hours after such discovery.⁵¹²

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the state board of health or a laboratory approved by the board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."⁵¹³

The county health officer enforces the state health laws and the regulations of the state board of health; promotes health education; collects vital statistics; makes periodic reports to the state board of health; and keeps records of these reports in his record books.⁵¹⁴

Counties have statutory authority to construct and maintain public hospitals, but conditions prevailing in Jay County have not required a county hospital.⁵¹⁵

VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the bureau of vital statistics of the state board of health.⁵¹⁶ The county health officer makes the collection of local data on forms supplied by the state board of health, and periodically delivers reports of all records to the state board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.⁵¹⁷

All birth reports are to be made to the health officer within 36 hours after birth. A child that lives and breathes

⁵¹² Acts 1911; Burns 35-903; Baldwin 8560.

⁵¹³ Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁵¹⁴ Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-6.

⁵¹⁵ Acts 1903; 1939; Burns, 1939 suppl., 22-3201; Baldwin, 1939 suppl., 4507.

⁵¹⁶ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

⁵¹⁷ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

after birth, no matter how brief the period, regardless of the period of gestation, is a living child; and if he thereafter dies, his birth and death must be reported and recorded.⁵¹⁸

Deaths are reported as soon as possible, because a body must not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death occurred by means of violence or criminal practices, the death notice is referred to the coroner. Burial may be made anywhere in the state regardless of the county in which the permit is issued. When a death occurs outside the state, and the body is brought into the state for interment, the burial permit must be based on the transportation permit, and no record of the death is required.⁵¹⁹ The burial permit is preserved with the records of the cemetery.⁵²⁰

Certified copies of the official records of births and deaths are furnished by the secretary of the state board of health, on request of any applicant. Courts and public officials will accept these copies as proof of the facts stated therein.⁵²¹

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quarterly report to the state board of health. Every marriage must be reported on an official blank, by the person performing the ceremony, within 3 days after the occurrence thereof, to the clerk of the circuit court of the county where the license was issued. The clerk keeps a record of each reported marriage, and will furnish a certified copy thereof on request of any applicant. Courts and public officials will receive these copies as proof of the facts therein stated.⁵²²

⁵¹⁸ Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8558. Rule 4 of the state board of health.

⁵¹⁹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 3 of the state board of health.

⁵²⁰ Acts 1939; Burns, 1939 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

⁵²¹ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

⁵²² Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1905, 1917; Burns 44-205; Baldwin 5625. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. Rule 5 of the state board of health.

Injunction against illegal issuance. *Sweigart v. State* (1938), 213 Ind. 157, 12 N. E. (2d)

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the state board of health.⁵²³

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and make reports directly to the state board of health as required by the board.⁵²⁴

WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.⁵²⁵

An applicant for old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the state for 5 years out of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; and must not have transferred his property within the 5 years immediately before his application.⁵²⁶ He must reveal all property and income in which he has an interest,⁵²⁷ agree to reimburse the county for assistance given him, and assign as collateral security such part of his personal property as the county department of public welfare may require.⁵²⁸ After an investigation the county department may grant him assistance, never exceeding \$30 a month.⁵²⁹ A copy of the certificate of award is filed in the office of the recorder, and constitutes a lien on any real property which the pensioner then owns or subsequently acquires.⁵³⁰ With the consent of the state department of public welfare, the county department may demand a transfer of all property he owns, on the sole

⁵²³ Acts 1907, 1913; Burns 35-115; Baldwin 8398. Rule 6 of the state board of health.

⁵²⁴ Acts 1907, 1913; Burns 35-117; Baldwin 8400.

⁵²⁵ See the essay entitled "County Department of Public Welfare."

⁵²⁶ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1201; Baldwin, 1937 suppl.,

14078-32.

⁵²⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

⁵²⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1213; Baldwin, 1937 suppl., 14078-44.

⁵²⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1203; Baldwin, 1937 suppl., 14078-34.

⁵³⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

condition that if assistance is suspended or if he dies the property will revert to him or his estate, subject to a lien for sums the state has paid to him.⁵³¹

A blind applicant, in order to receive state assistance, must be over 21 years old if a male or over 18 years if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the state or have lived in the state 5 of the last 9 years, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; must not have transferred his property within the 5 years immediately before his application; and must not solicit alms while receiving assistance.⁵³² The amount he receives is determined by the county department after an investigation of his needs⁵³³ and never exceeds \$30 a month⁵³⁴ except as temporary assistance is given for treatment of his eyes.⁵³⁵ Blind children may be sent to the school for the blind near Indianapolis.⁵³⁶

A dependent or destitute child must have lived in the state 1 year preceding his application for assistance or have been born within the state during the year, his mother having resided in the state 1 year before his birth.⁵³⁷ The first dependent child may receive \$20, the second child \$18, and each additional child \$12 a month.⁵³⁸ A destitute child⁵³⁹ may receive as much as \$23 a month,⁵⁴⁰ and is eligible for any other relief he may require.⁵⁴¹ Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.⁵⁴² Diseased and

⁵³¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1214; Baldwin, 1937 suppl., 14078-45.

⁵³² Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1221; Baldwin, 1937 suppl., 14078-52.

⁵³³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1225; Baldwin, 1937 suppl., 14078-56.

⁵³⁴ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1223; Baldwin, 1937 suppl., 14078-54.

⁵³⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

⁵³⁶ Acts 1865; Burns 22-601 *et seq.*; Baldwin 4560 *et seq.*

⁵³⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl., 14078-71, 14078-97b.

⁵³⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1241; Baldwin, 1937 suppl., 14078-72.

⁵³⁹ Acts 1937; Burns, 1939 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

⁵⁴⁰ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1269; Baldwin, 1937 suppl., 14078-97c.

⁵⁴¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1278; Baldwin, 1937 suppl., 14078-97i.

⁵⁴² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

defective children may be placed in any public hospital in the county by the judge of the circuit court.⁵⁴⁸ Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.⁵⁴⁴

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing *in loco parentis* to the child, except pursuant to a court order.⁵⁴⁵ Persons receiving aid under the Welfare Act are ineligible for other public relief.⁵⁴⁶ Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy proceedings.⁵⁴⁷

When a recipient of welfare assistance moves to another county in the state with the approval of the state department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for 1 year and then the other county becomes responsible.⁵⁴⁸

If a person entitled to assistance under the Welfare Act is unable to care for himself, the county department pays his relief money to some responsible person for his benefit.⁵⁴⁹ If a recipient of relief dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).⁵⁵⁰

⁵⁴⁸ Acts 1933; Burns 52-501; Baldwin 5700.

⁵⁴⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1104(c); Baldwin, 1937 suppl., 14078-5(c). Interview of December 11, 1939 with Thurman A. Gottschalk, chief administrator of the state department of public welfare.

Validity of regulations as to bringing nonresident children into the state for care by resident families. *Opinions of the Attorney General of Indiana, 1939*, p. 264.

⁵⁴⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

⁵⁴⁶ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1202, 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

⁵⁴⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

⁵⁴⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1218, 52-1239, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-70, 14078-79.

⁵⁴⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

⁵⁵⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

An appeal may be taken from the county department to the state department of public welfare.⁵⁵¹ Nothing in the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.⁵⁵²

The county maintains an asylum for the poor.⁵⁵³ Pauper residents of the county may be placed therein by township trustees.⁵⁵⁴ Nonresident paupers may be kept there temporarily.⁵⁵⁵ The law provides that children between the ages of 3 and 17 shall not be kept in the asylum for a period longer than 60 days.⁵⁵⁶ Township poor relief is administered by each township trustee.⁵⁵⁷ Anyone refused relief by a township trustee has the right to a hearing before the board of commissioners⁵⁵⁸ and to an appeal from that board to the circuit court.⁵⁵⁹ The board of commissioners may borrow for township poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.⁵⁶⁰

PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for

Burial of inmates of county infirmary. *Opinions of the Attorney General of Indiana, 1939*
p. 179.

⁵⁵¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

⁵⁵² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

⁵⁵³ Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁵⁵⁴ 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1939 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

⁵⁵⁵ Acts 1935; Burns, 1939 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

⁵⁵⁶ Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

⁵⁵⁷ Acts 1935, 1939; Burns, 1939 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns., 1939 suppl. 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 13320-39.

⁵⁵⁸ Acts 1935; Burns, 1939 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

⁵⁵⁹ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

⁵⁶⁰ Acts 1935, 1939; Burns, 1939 suppl., 52-604, 52-609, 52-610; Baldwin, 1935 suppl., 13359-1, 13359-6; Baldwin, 1939 suppl., 13359-7.

the enlargement of the public square, and to take care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.⁵⁶¹ No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.⁵⁶² The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.⁵⁶³

ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads⁵⁶⁴ and bridges.⁵⁶⁵ Generally the preliminary procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved or rejected; if approved, a contract for the work is let; and the damages are paid. In some instances, bonds may be issued for the construction of roads⁵⁶⁶ and bridges,⁵⁶⁷ and special assessment liens charged against the land benefited by the road.⁵⁶⁸

⁵⁶¹ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236.

⁵⁶² Acts 1899; Burns 26-534; Baldwin 5299.

⁵⁶³ Acts 1907; Burns 26-2006; Baldwin 5107.

⁵⁶⁴ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-201 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1204; Baldwin 8807. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8904 *et seq.*

Budget estimates. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

⁵⁶⁵ Acts 1905, 1907, 1919; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns, 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 36-2401 *et seq.*; Baldwin 9151 *et seq.*

⁵⁶⁶ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1433; Baldwin 8938 to 8946. Acts 1937; Burns, 1939 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

⁵⁶⁷ Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns 1939 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

⁵⁶⁸ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

State highways are those roads which have been officially designated as such by the state highway commission with the approval of the governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with state and federal funds under the supervision of the state highway commission. Roads not so designated as state highways, and those so designated and thereafter abandoned by the state, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.⁵⁶⁹ The county may render financial assistance to the state highway commission in the construction or maintenance of any state highway or bridge located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.⁵⁷⁰

All expenses incurred in the maintenance of county roads must be paid out of funds received by the county from the motor vehicle highway account of the state; and no tax can be levied for such purpose except by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.⁵⁷¹

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.⁵⁷²

⁵⁶⁹ Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31. Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1935; Burns, 1939 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1933; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8663, 8700. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804; 36-2806; Baldwin, 1937 suppl., 8695-4, 8695-6; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8696-11, 8696-12, 8696-19, 8696-20. Acts 1939; Burns, 1939 suppl., 36-3013; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

Law transferring township roads to county road system authorized the county to pay previous obligations of townships on such roads, but did not require such payment. Board of County Comrs. v. Farmers State Bank of Eaton (1937), 104 Ind. App. 692, 10 N. E. (2d) 769.

⁵⁷⁰ Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

⁵⁷¹ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1939 suppl., 36-2804; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2806; Baldwin, 1937 suppl., 8695-6.

⁵⁷² 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

The county highway supervisor has general supervision of the maintenance and repair of all county roads, bridges, and culverts.⁵⁷³ He makes maps of all county roads, and gives each road a name or number, so, that the roads may be efficiently patrolled for making repairs.⁵⁷⁴ Weeds must be cut and removed from the rights-of-way of county roads each year between June 15 and September 1.⁵⁷⁵

The board of commissioners has power to make suitable rules and regulations covering traffic on roads maintained by the county, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.⁵⁷⁶ The county surveyor or county highway supervisor may fix the limits of the loads for any road, bridge, or culvert maintained by the county.⁵⁷⁷

PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.⁵⁷⁸

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the state any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.⁵⁷⁹

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by

⁵⁷³ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

⁵⁷⁴ Acts 1933; Burns 36-1109; Baldwin 8707.

⁵⁷⁵ Acts 1939; Burns, 1939 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

⁵⁷⁶ Acts 1919; Burns 26-706; Baldwin 8890. Interview of December 29, 1939 with T. A.

Dicus, chairman of the state highway commission.

⁵⁷⁷ Acts 1933; Burns 36-1102, 36-110; Baldwin 8700, 8708. Interview of December 29, 1939 with T. A. Dicus, chairman of the state highway commission.

⁵⁷⁸ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

⁵⁷⁹ Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210. Baldwin 5165 to 5174.

the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.⁵⁸⁰

County buildings, not needed by the courts or for county business, may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,⁵⁸¹ or to private persons or corporations for a term not exceeding 5 years.⁵⁸²

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.⁵⁸³ The board may erect soldiers' monuments,⁵⁸⁴ memorial buildings, auditoriums, and coliseums.⁵⁸⁵ A township schoolhouse may be used for certain public meetings, with the consent of the township trustee.⁵⁸⁶ A schoolhouse no longer used as such, because of the abandonment of the school or its consolidation with another school, may be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.⁵⁸⁷

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,⁵⁸⁸ after plans and specifications adopted by the board, have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.⁵⁸⁹

DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers

⁵⁸⁰ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

⁵⁸¹ Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

⁵⁸² Acts 1919; Burns 26-1805, to 26-1810; Baldwin 5155 to 5160.

⁵⁸³ Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5164.

⁵⁸⁴ Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

⁵⁸⁵ Acts 1913; Burns 26-1707; Baldwin 5132.

⁵⁸⁶ Acts 1859; Burns 28-3307; Baldwin 6094. Acts 1913; Burns 28-3308 to 28-3311; Baldwin

6095 to 6098. *Opinions of the Attorney General of Indiana, 1939, p. 172.*

⁵⁸⁷ Acts 1939; Burns, 1939 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

⁵⁸⁸ Acts 1899; Burns 26-525; Baldwin 5389.

⁵⁸⁹ Acts 1899; Burns 26-537; Baldwin 5402. Acts 1807; Burns 26-2001 to 26-2005; Baldwin

appointed by the court.⁵⁹⁰ The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.⁵⁹¹ If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.⁵⁹² After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.⁵⁹³

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.⁵⁹⁴ The law requires that open ditches be cleaned out and repaired biennially, and that weeds, willows, and debris be removed therefrom annually, and that public tile drains be repaired whenever necessary.⁵⁹⁵

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county building or institution.⁵⁹⁶

OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.⁵⁹⁷ If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60 days' notice by publication and conducts a public hearing on

⁵⁹⁰ Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770. *Penn v. Ducomb* (1938), 213 Ind. 133, 12 N. E. (2d) 116.

⁵⁹¹ Acts 1933; Burns 27-108; Baldwin 5744.

⁵⁹² Acts 1933; Burns 27-122; Baldwin 5758.

⁵⁹³ Acts 1933; Burns 27-134; Baldwin 5770.

The circuit court has no power to collect these assessments as part of the proceedings for establishment of the drainage district. *Penn v. Ducomb* (1938), 213 Ind. 133, 12 N. E. (2d) 116.

⁵⁹⁴ Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁵⁹⁵ Acts 1933, 1935; Burns, 1939 suppl., 27-203, 27-210; Baldwin, 1935 suppl., 5777, 5784. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9. *Opinions of the Attorney General of Indiana, 1939*, p. 292.

⁵⁹⁶ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

⁵⁹⁷ Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.⁵⁹⁸ The board may acquire land to convey to the state for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30 days' notice, (b) public hearing, (c) consent of the governor and the director of the state department of conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.⁵⁹⁹

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent public forest.⁶⁰⁰ Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.⁶⁰¹ A gift of lands to the county on condition that they be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.⁶⁰² Any aggrieved taxpayer may appeal to the circuit court.⁶⁰³

Swamplands, saline lands, and meander lands, owned by the state, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.⁶⁰⁴

The board may permit county lands within $1\frac{1}{2}$ miles of a city or town to be used by such city or town for park purposes. Title to the land remains with the county.⁶⁰⁵

The board, on petition of a majority of the voters in the county, may purchase land to be used for fairgrounds.⁶⁰⁶ and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.⁶⁰⁷

⁵⁹⁸ Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

⁵⁹⁹ Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

⁶⁰⁰ Acts 1929; Burns 32-101; Baldwin 4875.

⁶⁰¹ Acts 1929, 1935; Burns, 1939 suppl., 32-102; Baldwin, 1935 suppl., 4876.

⁶⁰² Acts 1929; Burns 32-105; Baldwin 4879.

⁶⁰³ Acts 1929, 1935; Burns, 1939 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

⁶⁰⁴ Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

⁶⁰⁵ Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

⁶⁰⁶ Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

⁶⁰⁷ Acts 1873; Burns 26-1519; Baldwin 5332.

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.⁶⁰⁸

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,⁶⁰⁹ subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,⁶¹⁰ and may convey any such public or private cemetery to a cemetery association on petition of a majority of the persons, being residents of the county and heads of families, whose dead are buried in the cemetery.⁶¹¹

AGRICULTURE

The constitution provides that improvement of agriculture shall be encouraged.⁶¹² Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.⁶¹³ Jay County has a county agricultural agent and a home demonstration agent, for the improvement of agriculture, home economics, and rural life.⁶¹⁴

RECORDS SYSTEM

The records of Jay County began with its organization in 1836. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the general assembly under the provisions for each office.

In 1909 the legislature established the state board of accounts, which formulates, prescribes, and installs systems of accounting and reporting which are uniform for every public

⁶⁰⁸ Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 4023 to 4026.

⁶⁰⁹ 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

⁶¹⁰ Acts 1905; Burns 48-6003; Baldwin 12665.

⁶¹¹ Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

⁶¹² Const. 1851, art. 8, sec. 1.

⁶¹³ Acts 1877; Burns 15-314; Baldwin 5333.

⁶¹⁴ See the essay entitled "County Agricultural Agent."

office of the same class.⁶¹⁵ Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.⁶¹⁶

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the state board of accounts.⁶¹⁷ No system has been established in Jay County under authority of this law.⁶¹⁸

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.⁶¹⁹

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the governor a certified list of such records furnished by the state, and he must order the proper state officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to duplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.⁶²⁰

In 1925 a law was passed permitting county officials, at their discretion, to turn over to the archives division of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and materials not in current use

⁶¹⁵ Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

⁶¹⁶ Interview of February 28, 1940 with E. P. Brennan, state examiner.

⁶¹⁷ Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁶¹⁸ Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁶¹⁹ Acts 1877; Burns 26-634; Baldwin 5339.

⁶²⁰ 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881;

Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

in their offices.⁶²¹ County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provided that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.⁶²² The photographic method of recording has never been used generally by any Jay County officer.

In 1937 the general assembly authorized the director of the state library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the state archives. All public officials must permit such copies to be made.⁶²³

In 1939 the legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, 3 years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred to the state library 3 years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located.

⁶²¹ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶²² Acts 1927; Burns 49-3207; Baldwin 14667.

⁶²³ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

In the event of such transfer, the records of class (c) will be added to the "archives" of the library while those of class (d) will constitute a part of the "collection" of such library.⁶²⁴

An act of 1935 created, in the executive department of the state, a "commission on public records," consisting of the governor, secretary of state, state examiner, director of the state library, and director of the historical bureau. This act is almost identical with the act of 1939 creating a "Commission of public records" in each county, except as to the provisions for ex officio members of the commission.⁶²⁵

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The history of courthouses in Jay County dates from May 3, 1837, when the board of commissioners in session at the home of Henry H. Cuppy ordered "that there be a house erected on some suitable lot in the Town of Portland for the use of the County," and directed Christopher Hanna to superintend the letting of the contract.¹ The building was completed during the summer of 1837 and on September 4 of that year the board ordered that "the court adjourn to the Court House in Portland... at two o'clock, P.M." On the same day the board "ordered that Robert Huey be allowed One Hundred and Twenty Three Dollars and Twenty five cents for building a House in Portland to hold Court in, to be paid out of the first proceeds of the sale of lots in said Town of Portland."² A description of this building seems not to have been preserved but there can be little doubt that it was a log structure.

In March 1839 the board ordered that sealed proposals be received for the construction of a permanent courthouse, either brick or frame.³ At its May term the board appointed Benjamin W. Hawkins its agent "to accept of the proposals

⁶²⁴ Acts 1939; Burns, 1939 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-

10. See the essay entitled "Commission of Public Records."

⁶²⁵ Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-

10. *Opinions of the Attorney General of Indiana, 1939*, p. 259.

¹ Commissioners' Record, A:19.

² *Ibid.*, 21.

³ *Ibid.*, 92.

of Lewis N. Byram for the building of a Court House in the town of Portland on some part of the Public Square to be selected by said Hawkins or the commissioners... "According to the plans adopted at the time, the building was to be a two-story brick structure, 30' wide and 40' long, the timbers to be of either white or burr oak and the roof to be of "good joint shingles." Hawkins was instructed to "agree to pay Byram or any other contractor in his discretion all monies in his hands or that may come into the treasury for the purpose of Public Buildings..."⁴ In November of that year Byram was given definite instructions to erect the building, for which service he was to receive \$1,750.⁵

The work on the building met with considerable delay and it was June 1842 before the structure was accepted by the board, at which time "after examining the work aforesaid and things thereto appertaining," the board allowed Byram \$1,600 instead of the \$1,750 formerly agreed upon.⁶ On July 2 following, the board ordered "that William Haines be employed to finish the courthouse agreeably to agreement."⁷ For this work Haines was paid a total of \$1,800, \$50 more than the amount for which the original contract for erecting the building called.⁸ Presumably the courtroom occupied the entire lower floor of the building. As originally planned the upper floor was to be divided into four rooms but the plans were later modified and five rooms ordered constructed.⁹

The building thus constructed was abandoned in 1859, the upper story of "Miller's Building" being rented in March of that year for a courtroom.¹⁰ In the following year the old building was sold to James N. Templer, J. P. Winters, and George Williams for \$153.¹¹ Not until 1866, the Civil War in the meantime intervening, were steps taken toward the erection of another courthouse. In September of that year the board announced that it would receive bids for 300,000 "merchantable Bricks in the Kiln for the purpose of erecting

⁴ *Ibid.*, 101.

⁵ *Ibid.*, 121.

⁶ *Ibid.*, 233.

⁷ *Ibid.*, 242.

⁸ *Ibid.*, 299.

⁹ *Ibid.*, 249.

¹⁰ *Ibid.*, C:250.

¹¹ *Ibid.*, 293.

a Court House in the Town of Portland."¹² At the December term the contract was awarded to D. T. Taylor for \$4.85 per thousand.¹³ In March 1867 a total of \$109.27 was allowed for procuring plans.¹⁴ A year later G. W. Beall was appointed building superintendent and authorized to build a shop on the northwest corner of the "court house lot" and to purchase such materials as might be necessary for building a workshop and the courthouse.¹⁵ At a special session in April following, James N. Templer was allowed \$1,290 for the original courthouse grounds and A. J. Inchinrock and S. H. William were allowed \$100 and \$75, respectively, for adjoining lots, the whole to be used as a site for the courthouse.¹⁶ In September 1870 Beall reported the building complete except for graining the stairway and putting the railing in place. The total cost of the courthouse he gave as \$47,696.02 but stated that the sum included the cost of additional grounds, painting the jail, grading, fencing, etc. The board declared itself completely satisfied and tendered to Beall its thanks for "the able workmanship and the economy used in the superintendence and construction of said Court House."¹⁷

The county's first jail was ordered by the board of commissioners in September 1837. The specifications provided for a one-story structure, 16' wide and 20' long, the walls to be made of sound burr oak, white oak or hickory logs at least 1' in thickness, the floor and ceiling to be made of the same material and of the same thickness. A partition made of logs, also 1' in thickness, divided the structure into two rooms. Two doors, one connecting the larger room with the outside and the other connecting the two rooms were to be provided with shutters constructed of 3-inch planking and hinged with $\frac{3}{4}$ -inch iron, 2 inches wide. Two windows, one in each of the two rooms, were to be secured with iron bars extending in each direction.¹⁸

At its November term the board appropriated \$200, a part of which was to be used for building the jail.¹⁹ In March

¹² *Ibid.*, D:228.

¹³ *Ibid.*, 241.

¹⁴ *Ibid.*, 267.

¹⁵ *Ibid.*, 356.

¹⁶ *Ibid.*, 363, 369.

¹⁷ *Ibid.*, E:34.

¹⁸ *Ibid.*, A:29.

¹⁹ *Ibid.*, 34.

1838 it ordered that the jail be erected on the northwest corner of the public square.²⁰ One year later Joshua Pennock was allowed \$66, the balance due him for building the jail. Immediately following this entry in the record the board ordered "that there be a suit commenced forthwith against Joshua Pennock for not completing the jail according to specifications."²¹ A committee consisting of Sanford Ackerman and Alexander White reported to the board at its May term that they had reviewed the jail as directed and found that it was not made according to specifications but that if the staple for the lock were made sufficient, the floor adzed off, a ring fixed in the floor of the small room and a bar of iron placed each way across the window in the small room the building would meet the terms of the contract.²²

This jail evidently did not meet the needs of the county, for in January 1840 John Pingry was given a contract to build a jail in Portland similar to the one in Decatur in Adams County, the same to be completed before the 2d Monday in the following October. For this service Pingry was to receive \$800.²³ At its November term the board appointed Christopher Hanna to accept the jail when completed according to contract and directed that he issue an order in payment for the same.²⁴

The building was a hewn log structure.²⁵ It served as a place for incarcerating the prisoners of the county until 1862. An order of the board in April of that year provided for a two-story brick residence for the sheriff, 44' long and 22' wide, to which a jail 25' 6" in length and 19' 6" in width was to be attached. The jail was to contain eight cells, arranged in two tiers, each cell to be lined with ¼-inch boiler plate securely riveted.²⁶ At a special session in May the board awarded the contract for constructing the building to W. H. and M. W. Montgomery for \$2,237.²⁷ In December next the building was accepted, at which time the contractors were allowed \$863 extra.²⁸ In the same month the old jail was sold to Harrison Williams for \$36.²⁹

²⁰ *Ibid.*, 49.

²¹ *Ibid.*, 91.

²² *Ibid.*, 102.

²³ *Ibid.*, 131.

²⁴ *Ibid.*, 171.

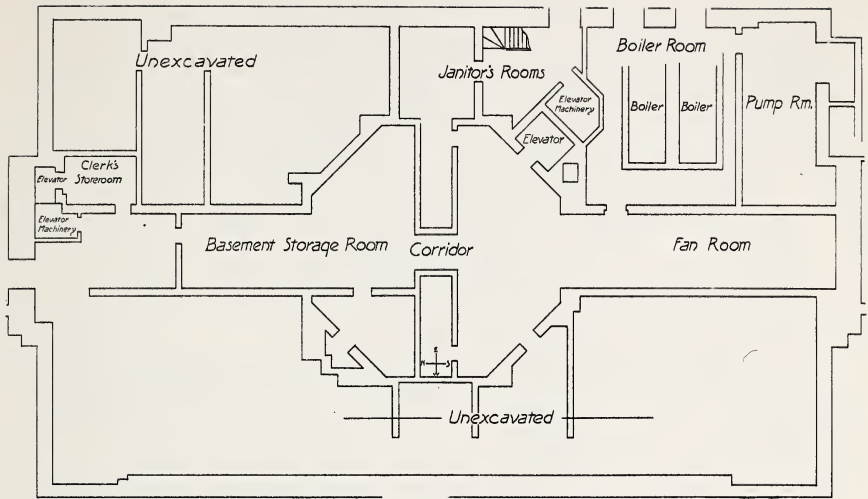
²⁵ J. F. Snow, *History of Adams County, Indiana* (Indianapolis, Indiana, 1907), 139.

²⁶ Commissioners' Record, C:451-456.

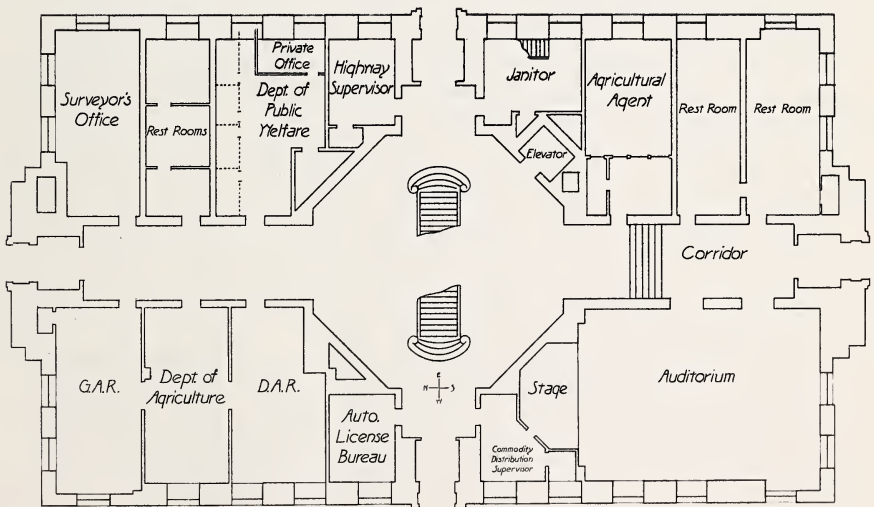
²⁷ *Ibid.*, 466.

²⁸ *Ibid.*, 507.

²⁹ *Ibid.*, 509.



BASEMENT, JAY COUNTY COURTHOUSE



FIRST FLOOR, JAY COUNTY COURTHOUSE

A new jail was found necessary by the board of commissioners in 1899. The board accepted from Wing and Mahurin, Fort Wayne architects, plans for a two-story brick jail and sheriff's residence and awarded the contract to A. L. Jaqua and John W. Lalley.³⁰ In May 1900 the board annulled the contract, the only sign of a jail being a "hole in the ground" and an adjacent pile of building stone.³¹ A new contract was given to the Pauley Jail Building and Manufacturing Company, of St. Louis, Missouri, for \$29,930, with provision for an additional sum of \$900 for the use of pressed brick.³² The building, containing tiers of steel cells with sliding doors and with stone foundation set deep in the earth to foil prisoners imbued with a penchant for tunneling was accepted by the commissioners in July 1901.³³

The present courthouse was ordered by the board of commissioners on May 11, 1916. The contract price was \$238,000 but added features brought the total cost to nearly \$400,000. The cost was met entirely from accumulated funds in the county treasury. The building was dedicated in January 1919. It was built by the Dawson Construction Company, of Pittsburgh, Pennsylvania. One hundred and fifty-eight feet by 92' in overall dimensions, it is a three-story structure, faced with Bedford limestone.³⁴ A room-by-room description of the present housing of county records follows:

Board of Commissioners. Twenty-one percent of the records are in the auditor's office, 55 percent in the auditor's vault, and 24 percent in the basement storage room.

County Council. Twenty-five percent of the records are in the auditor's office and 75 percent in the auditor's vault.

Clerk of the Circuit Court. The clerk's main office, a room 32' by 42', lies on the east side of the second floor. There are steel filing cabinets beneath a 28-foot counter and steel filing cases and shelving along the walls. These facilities house 1,230' of bound volumes and 270' of unbound records, comprising 95 percent of the clerk's records. The remaining 5 percent are in the basement storage room. The clerk's office is not crowded but there is not sufficient room for expansion.

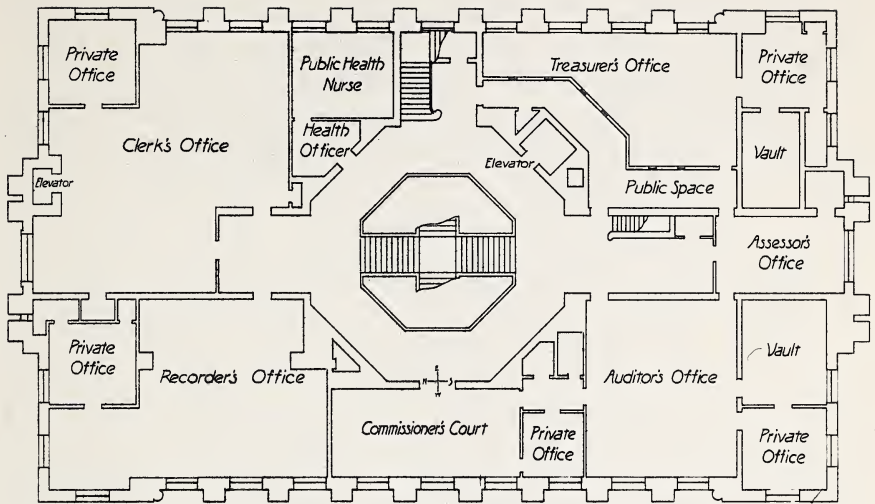
³⁰ *Ibid.*, N:316, 446.

³¹ *Portland Sun*, July 27, 1900.

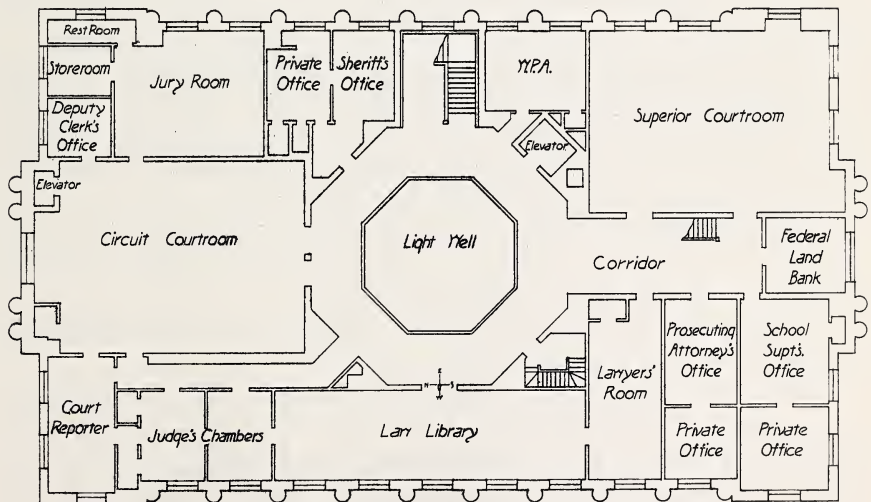
³² Commissioners' Record, 0:19 *et seq.*

³³ *Ibid.*, 214. *Portland Commercial*, July 17, 1901.

³⁴ *Portland Commercial Review*, September 21, 1936.



SECOND FLOOR, JAY COUNTY COURTHOUSE



THIRD FLOOR, JAY COUNTY COURTHOUSE

Recorder. The recorder's main office, a room 50' by 24' in the northwest corner of the second floor, houses 99 percent of the records which consist of 1,100' of bound volumes in steel cabinets. The cabinets are arranged along the walls and beneath a 25-foot counter. There is no space for expansion. One percent of the records are in the auditor's vault.

Circuit Court. The courtroom, measuring 50' by 36', lies on the north side of the third floor, and houses 1 percent of the records. Ninety-one percent are kept in the clerk's office and 8 percent in the deputy clerk's office. The latter office adjoins the courtroom and is 10' by 12' in size. It is connected with the clerk's office by a private elevator, the car of which contains a filing case for current court papers.

Sheriff. The sheriff's offices consist of a private office 16' by 12' and a main office measuring 26' by 20'. Therein are housed 67 percent of the sheriff's records, comprising 80' of bound volumes and 16' of unbound records in steel filing cases arranged along the walls. Thirty-three percent of the records are in the basement storage room, to which the older records are occasionally transferred.

Coroner. All the records are kept in the clerk's office.

County Assessor. All the records are kept in the assessor's office, a room 24' by 14' situated in the south end of the second floor.

County Board of Review. Eight percent of the records are in the auditor's office and 92 percent in the auditor's vault.

County Board of Tax Adjustment. Twelve percent of the records are in the auditor's office, 66 percent in the auditor's vault, and 22 percent in the basement storage room.

Board of Finance. Eleven percent of the records are in the auditor's office, 78 percent in the auditor's vault, and 11 percent in the basement storage room.

County School Fund Board. All the records are in the auditor's office.

Treasurer. The treasurer's office, situated in the southeast quarter of the second floor, measures 47' by 32'. Therein are housed 14 percent of the records, consisting of 150' of bound volumes and 20' of unbound records in steel cases beneath a counter. In the adjoining treasurer's vault, 18' by 10', there are 600' of horizontal shelves in steel cabinets, representing 35 percent of the records. The remaining 51 percent are housed in the basement storage room. There is no room for expansion in the office or vault.

Auditor. The auditor occupies the southwest quarter of

the second floor. The main office, measuring 33' by 28', houses 190' of bound volumes and 10' of unbound records arranged in steel cases and cabinets beneath a counter and along the walls, representing 5 percent of the records. The adjoining auditor's vault, 15' by 19', houses 21 percent of the records, comprising 540' of bound volumes and 215' of unbound records. There is little space for expansion. Six percent of the records are in the public welfare office, 19 percent in the assessor's office, and 49 percent in the basement storage room.

Registration Officer, Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners. All the records are in the clerk's office.

County Board of Education. All the records are in the office of the superintendent of schools.

County Superintendent of Schools. Ninety-one percent of the records are in the superintendent's office, consisting of 2 rooms, 19' by 16' and 16' by 16', situated in the southwest corner of the third floor. The offices contain 25' of bound volumes in steel cabinets and 18' of unbound material in steel filing cases. There is adequate space for expansion. The remaining 9 percent of the records are in the basement storage room.

County Health Officer. The health officer's office, a room 16' by 18' adjacent to the clerk's office, houses 97 percent of the records. The balance of the records are kept in the physician's private office of the incumbent, located at 105½ West Main Street, Portland, Indiana.

Public Health Nurse. All the records are in the nurse's office, a room 16' by 18' adjoining the clerk's office and the health officer's office.

County Department of Public Welfare. All the records are in the welfare office, a room 33' by 20' located on the east side of the first floor. They are compactly and conveniently arranged, but there is little room for expansion.

Surveyor. The surveyor's office, 12' by 30', situated in the northeast corner of the first floor, houses all the records, which are kept in steel cabinets and filing cases and on horizontal shelving.

County Highway Supervisor. Thirty percent of the records are kept in the highway supervisor's office, a room 15' by 14' adjoining the welfare office on the first floor. Seventy percent of the records are in the basement storage room.

County Agricultural Agent. All the records are in the agricultural agent's office, 16' by 33' in size, situated in the east side of the first floor.

Basement Storage Room. The storage room, in which the older records of several offices are housed, lies in the north wing of the basement. It is 25' by 19' in size, with floor and walls of concrete and ceiling of tile. In the storage room are 600 linear feet of wood shelving. The shelving was built and the records arranged thereon by the WPA in 1936-37. There is space for additional shelving. There are electric drop lights.

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5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

agr. sgt.	agricultural agent('s)
alph.	alphabetical(ly)
App.	<i>Appellate Court Reports</i> (State of Indiana)
approx.	approximate(ly)
arr.	arranged
art.	article
as sr.	assessor('s)
aud.	auditor('s)
bd.	board
bdl.	bundle(s)
bk.	book
Blackf.	<i>Blackford Reports</i> (Supreme Court of Indiana)
bldg.	building
bsmt.	basement
c.	copyright (before date)
C.C.	County Courthouse
cf.	compare
ch.	chapter
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comr.	commissioner('s)
Const.	Constitution of Indiana
cor.	coroner('s)
ct. rept.	court reporter
diam.	diameter
et	and
et al.	<i>et alii</i> — and others
et seq.	<i>et sequentia</i> — and following
ex rel.	<i>ex relatione</i> — upon relation of. (Designates the person at whose instance the state or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
fl.	floor
hdw.	handwritten
hlth. offr.	health officer('s)
hwy. sup.	highway supervisor('s)

<i>ibid.</i>	<i>ibidem</i> (same reference as that immediately foregoing)
Ind.	Indiana: <i>Indiana Reports</i> (when preceded by the volume number, reference is to the official state supreme court reports)
insp.	inspector
juv.	juvenile
lb.	pound
<i>loc. cit.</i>	<i>loco citato</i> —in the place cited.
mi.	mile
n.	note
n. d.	no date
N. E.	<i>North Eastern Reporter</i> (judicial decisions). 2d—Second series
no., nos.	number(s)
num.	numerically
off.	office
offr.	officer
<i>op. cit.</i>	<i>opere citato</i> —in the work cited. (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem.</i>	<i>pro tempore</i>
prob. comr.	probate commissioner
pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record
recr.	recorder('s)
reg.	register
Rev. Laws	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
rm.	room
sec. secs.	section(s)
sher.	sheriff(s)
<i>sic</i>	thus (indicating expression, misspelling, etc., is the same as in the original)
Spec. Sess.	Special Session
sta.	station

stat.	statutes
stor.	storage
sub-basmt.	sub-basement
suppl.	supplement
supr. ct.	superior court
supt.	superintendent(s)
surv.	surveyor('s)
treas.	treasurer('s)
twp., twps.	township(s)
U. S.	United States
U. S. C.	<i>United States Code</i>
v.	versus
vol., vols.	volume(s)
vt.	vault
'	foot, feet
"	inch(es) (omitted after dimensions in entries)
x	by, in dimensions

EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

Entry number. The entries are numbered consecutively.

Exact title (in capitals and small capitals) as it appears on the record. Titles enclosed in brackets are supplied by the Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record, showing inclusive beginning and ending dates by years only. Missing records are indicated by a break in the dates. A dash in place of an ending date denotes an open record. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with date following. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

Quantity and labeling, given in chronological order wherever possible.

Variations in title. Current or most recent title used as entry title; if former titles vary, they are shown.

Changes in keeping records. Occasionally the county record is discontinued or is kept by some other authority—state or other county office; if changes in keeping records are made, such changes are indicated and information is given to show by which authority the record is now kept.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of cartographer and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of arrangement: Chronological, topical, or other system.

Method of indexing, pertaining to self-contained indexes. Separate indexes are noted also, with a cross-reference thereto.

Nature of recording: Records are shown as handwritten, typewritten, or printed; maps and plats are shown as drawn, blueprinted, or printed.

Condition. Omitted if good or excellent.

Number of pages averaged for a series.

Size of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers,

in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

Location. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title-line of entry 12: "1911-23 in Bond Register, entry 11." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files, or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 275, "In Election Register, entry 277." In both instances the description of the master entry or entry of miscellaneous contents shows the title and number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 33: "Also contains: Recognizance Bond Order Book, 1927-, entry 128." Dates shown in such a cross-reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross-references from entry to entry, and *See also* references with subject headings or subheadings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

PART B. COUNTY OFFICES AND THEIR RECORDS

I. BOARD OF COMMISSIONERS

LEGAL STATUS

The board of commissioners of Jay County, which has existed since 1836, is composed of three members¹ elected for 3-year terms commencing in different years.² The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.³ A member receives a certificate of election from the clerk of the circuit court⁴ and remains in office until his successor has been elected and qualified.⁵ Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁶ must reside within the county after his election; must not hold any other lucrative office;⁷ and must take an oath to support the state and federal constitutions and faithfully discharge his duties.⁸ A member receives a regular salary of \$320 per year,⁹ plus 6 cents for each mile necessarily traveled by him in the conduct of county business.¹⁰

¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. See footnote 16 herein.

County commissioners are not constitutional officers. *State ex rel. Workman v. Goldthait* (1909), 172 Ind. 210, 87 N. E. 133.

² 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26-604; Baldwin 5218.

³ 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

The members are not commissioned by the governor. *Ibid.*

⁵ Const. 1851, art. 15, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

⁶ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁷ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605; Baldwin 5219.

⁹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1933; Burns 49-1013; Baldwin 7543.

For sufficient legal grounds any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of county commissioner, or any prospective vacancy caused by death or resignation before time for commencement of the term of a commissioner-elect, is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.¹³

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Jay." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.¹⁴ In legal contemplation the board is the county.¹⁵

Since the organization of Jay County in 1836 the general administrative control of county matters has been vested in a board of commissioners, composed of three members (individually known as county commissioners) elected by the voters of the whole county, one from each of three commissioners' districts, subject to exceptions herein stated. Since 1899 many powers of a fiscal nature (including the making of tax levies) previously exercised by the board of commissioners have been vested exclusively in the county council.¹⁶

FUNCTIONS AND RECORDS

The board of commissioners may purchase and sell property

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

¹⁴ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

¹⁵ Dice v. County Board of Finance (1934), 99 Ind. App. 405, 192 N. E. 770.

¹⁶ Rev. Laws 1831, ch. 20. Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, art. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Snider v. State *ex rel.* Leap (1934), 206 Ind. 474, 190 N. E. 178. See the essay entitled "County Council."

for the county;¹⁷ has control of the county property;¹⁸ has charge of the purchase of materials and supplies needed by the county officials;¹⁹ has charge of the construction and maintenance of roads,²⁰ bridges, culverts,²¹ waterways,²² and county buildings;²³ has the power of eminent domain;²⁴ provides office rooms for county officers;²⁵ prepares annual budget estimates;²⁶ may authorize tax refunds;²⁷ allows claims against the county;²⁸ issues bonds;²⁹ may establish or abolish townships and election precincts, and change the boundary lines thereof;³⁰ provides rooms, booths, and ballot

¹⁷ Acts 1899; Burns 26-534; Baldwin 5399. Acts 1907; Burns 29-2003; Baldwin 5107. Acts 1899; Burns 28-250 to 28-257; Baldwin 6602 to 6609.

¹⁸ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Insurance. Potts v. Bennett (1895), 140 Ind. 71, 39 N. E. 518; Barnhill v. Woodard (1901), 26 Ind. App. 482, 59 N. E. 1085.

¹⁹ Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

²⁰ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8669 *et seq.*

²¹ Acts 1905, 1907, 1929; Burns 36-1901 *et seq.*; Baldwin 9236 *et seq.* Acts 1905, 1911, 1913; Burns 36-2001 *et seq.*; Baldwin 9191 *et seq.* Acts 1920 (Spec. Sess.); Burns 36-2404; Baldwin 9154.

The board may purchase toll bridges. Acts 1861; Burns 26-1415; Baldwin 5329.

²² Acts 1883; Burns 26-1401 to 26-1412; Baldwin 5313 to 5323. Acts 1873; Burns 26-1413, 26-1414; Baldwin 5291, 5292. Acts 1905; Burns 68-101 to 68-107; Baldwin 16324 to 16330.

²³ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1907; Burns 26-2002, 26-2004; Baldwin 5101, 5103.

²⁴ Acts 1937; Burns, 1939 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1939 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

²⁵ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

²⁶ Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

²⁷ Acts 1919, 1927, 1929; Burns 64-2819 to 64-2821; Baldwin 15881, 15882, 15885.

²⁸ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

Cancellation of allowances and warrants issued thereunder. Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273,

²⁹ 1 Rev. Stat. 1852, Acts 1869; Burns 26-1001 *et seq.*; Baldwin 5242 *et seq.*

³⁰ Townships. Acts 1859, 1939; Burns, 1939 suppl., 26-701; Baldwin, 1939 suppl., 16055. Acts 1919, 1939; Burns, 1939 suppl., 26-705; Baldwin, 1939 suppl., 16059.

boxes for elections, and may provide voting machines;³¹ may establish and maintain libraries;³² and hospitals;³³ may establish a workhouse and employ a superintendent thereof;³⁴ inspects the county jail³⁵ and poor asylum;³⁶ may prescribe regulations governing the work of prisoners outside the jail;³⁷ maintains standards of weights and measures;³⁸ may order the establishment of a permanent meridian line in the county;³⁹ may regulate traffic on the county highways;⁴⁰ may enforce regulations of the Administrative Building Council of Indiana;⁴¹ may determine the question of public utility of a levee petitioned for by a levee association;⁴² may make special assessments to pay the cost of construction of roads;⁴³ may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;⁴⁴ may reproduce mutilated or decayed records;⁴⁵ may administer oaths, enforce its orders, and punish for contempt;⁴⁶ may authorize the payment of bounties;⁴⁷ may offer rewards in case of murder or lynching;⁴⁸ examines the treasurer's quarterly reports,⁴⁹ and makes

Election precincts. Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

³¹ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135.

³² Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321. *Opinions of the Attorney General of Indiana*, 1939, p. 124.

³³ Acts 1903; Burns 22-3201; Baldwin 4507.

³⁴ Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

³⁵ Acts 1909; Burns 13-1008; Baldwin 13460.

³⁶ 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

³⁷ Acts 1905; Burns 9-2229; Baldwin 2336.

³⁸ 1 Rev. Stat. 1852; Burns 69-101.

³⁹ Acts 1895; Burns 49-3307; Baldwin 5513.

⁴⁰ Acts 1919; Burns 36-706; Baldwin 8899.

⁴¹ Acts 1923; Burns 20-401, 20-408; Baldwin 4603, 4610.

⁴² Acts 1913, 1927; Burns 27-915; Baldwin 10241.

⁴³ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁴⁴ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

⁴⁵ Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340.

⁴⁶ 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

⁴⁷ 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 3802, 5289, 5293, 5294.

⁴⁸ Acts 1899; Burns 26-1104; Baldwin 5290.

⁴⁹ Acts 1895, 1913; Burns 49-1402; Baldwin 7578.

annual settlements with him;⁵⁰ annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;⁵¹ may approve (subject to further approval by the state board of accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;⁵² may authorize county officers to use a photographic process for recording deeds, mortgages, and other instruments;⁵³ may license ferries⁵⁴ and fix ferry rates;⁵⁵ may authorize elections for the incorporation of towns;⁵⁶ may authorize a town to annex unplatted lots;⁵⁷ may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county;⁵⁸ is authorized to appoint a county highway supervisor,⁵⁹ a county health officer,⁶⁰ a public health nurse,⁶¹ a county inspector of weights and measures,⁶² a superintendent of the poor asylum,⁶³ food inspectors (beef, flour, pork, salt, and hay),⁶⁴ an appraiser of state lands,⁶⁵ certain justices of the peace,⁶⁶

⁵⁰ Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁵¹ Acts 1899; Burns 26-546; Baldwin 5411.

⁵² Acts 1937; Burns, 1939 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁵³ Acts 1927; Burns 49-3207; Baldwin 14667.

⁵⁴ Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443.

⁵⁵ Acts 1881 (Spec. Sess.), 1897; Burns 36-2615; Baldwin 7705.

⁵⁶ Acts 1905; Burns 48-105; Baldwin 11328.

⁵⁷ Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

⁵⁸ 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

⁵⁹ Acts 1933; Burns 36-1110; Baldwin 8708. See the essay entitled "County Highway Supervisor."

⁶⁰ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. See the essay entitled "County Health Officer."

⁶¹ Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6. See the essay entitled "Public Health Nurse."

⁶² Acts 1911, ch. 263, sec. 3. Acts 1913, ch. 161, sec. 1. Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338.

⁶³ Acts 1927; Burns 22-3009; Baldwin 4354. Acts 1899, 1913; Burns 52-204; Baldwin 13365.

⁶⁴ Acts 1818-19, ch. 15, sec. 1. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1833, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468.

⁶⁵ Acts 1889; Burns 62-207; Baldwin 15273.

⁶⁶ Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

fence viewers,⁶⁷ five members of a county planning commission,⁶⁸ three members of the county public library board,⁶⁹ and three members of a miners' examination board;⁷⁰ may employ a county attorney,⁷¹ tax ferrets,⁷² a civil engineer (if the surveyor is not a competent civil engineer),⁷³ bridge superintendents,⁷⁴ road viewers and reviewers,⁷⁵ a county veterinarian,⁷⁶ a physician for poor persons (in county institutions) and prisoners;⁷⁷ may authorize the appointment of deputies and assistants of county officers;⁷⁸ approves the official bonds⁷⁹ of the auditor,⁸⁰ clerk of the circuit court,⁸¹ coroner,⁸² county highway supervisor,⁸³ recorder,⁸⁴

⁶⁷ Rev. Laws 1824, ch. 15, sec. 7; ch. 38, secs. 2, 3; ch. 69, sec. 3. Rev. Stat. 1838, ch. 21, secs. 20-23. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69-71. Acts 1877 (Spec. Sess.) Burns 30-605; Baldwin 7655.

⁶⁸ Acts 1935; Burns, 1939 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

⁶⁹ Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁷⁰ Acts 1923; Burns 46-1001; Baldwin 11073.

⁷¹ Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

⁷² Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

⁷³ Acts 1919; Burns 36-306, 36-505; Baldwin 8864, 8883. Acts 1905, 1907; Burns 36-1205, 36-1301; Baldwin 8808, 8787. Acts 1921; Burns 36-1410; Baldwin 8913. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁷⁴ Acts 1818-19, ch. 12, sec. 1. Rev. Laws 1824, ch. 87, sec. 27. Rev. Stat. 1838, ch. 91, sec. 57. Rev. Stat. 1843, ch. 16, sec. 62. 1 Rev. Stat. 1852, chs. 16, 92. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002, 36-2003; Baldwin 9192, 9193. Acts 1895; Burns 36-2217; Baldwin 9232.

⁷⁵ Acts 1821-22, ch. 25, sec. 5. Rev. Laws 1824, ch. 87, secs. 4, 5, 7, 9, 24. Rev. Stat. 1838, ch. 91, secs. 4, 13, 18, 71, 72. Rev. Stat. 1843, ch. 16, secs. 13, 33, 39. 1 Rev. Stat. 1852, ch. 48, secs. 9, 15, 19, 23, 28, 31, 46. Acts 1859, ch. 64. Acts 1865, ch. 8, secs. 3, 4. Acts 1867, ch. 61, sec. 3. Acts 1877, ch. 47, secs. 2, 6. Acts 1905, 1907, 1911, 1913; Burns 36-201, 36-216, 36-220, 36-221, 36-223, 36-224, 36-1205, 36-1301; Baldwin 8756, 8773, 8776, 8777, 8780, 8781, 8808, 8787. Acts 1921; Burns 36-1430; Baldwin 8933. Acts 1909; Burns 36-805; Baldwin 9113. Acts 1935; Burns, 1939 suppl. 36-2704; Baldwin, 1935 suppl., 14775-4.

⁷⁶ Acts 1925; Burns 16-609; Baldwin 3872. Acts 1915; Burns 16-703; Baldwin 3853.

⁷⁷ 1 Rev. Stat. 1852, ch. 3, sec. 8. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. Lamar v. Board of County Comrs. (1892), 4 Ind. App. 191, 30 N. E. 912.

⁷⁸ Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

⁷⁹ Acts 1851-52; Burns 49-123; Baldwin 13093.

⁸⁰ Acts 1889; Burns 49-3003; Baldwin 5417.

⁸¹ Acts 1875; Burns 49-2703; Baldwin 1430.

⁸² 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁸³ Acts 1925; Burns 69-106; Baldwin 16337.

⁸⁴ Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

sheriff,⁸⁵ surveyor,⁸⁶ and treasurer;⁸⁷ may remove a delinquent county treasurer after suit on his official bond has been commenced;⁸⁸ and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,⁸⁹ and any officers originally appointed to office by the board of commissioners.⁹⁰ Appointments made by the board are certified by the auditor.⁹¹

The members of the board of commissioners are ex officio members of the board of finance.⁹² The president of the board of commissioners is an ex officio member of the commission of public records.⁹³

If a county hospital is established in Jay County, the three county commissioners will be members of the hospital governing board and serve with eight members appointed by the judge of the circuit court.⁹⁴

Formerly the board of commissioners audited the books and accounts of all officers handling county funds (1853 to 1909);⁹⁵ granted poll tax exemptions (1836 to 1919);⁹⁶ annually awarded scholarships to Indiana University (1836 to 1919) and Purdue University (1877 to 1935);⁹⁷ received

⁸⁵ Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

⁸⁶ Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

⁸⁷ 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

⁸⁸ 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

⁸⁹ 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁹⁰ See the authorities cited above for the appointment of officers by the board of commissioners.

⁹¹ 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

⁹² Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

⁹³ Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

⁹⁴ Acts 1903, 1939; Burns, 1939 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

⁹⁵ 1 Rev. Stat. 1852, Acts 1935; Burns, 1939 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁹⁶ Rev. Laws 1824, ch. 86, sec. 1. 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1936*, p. 83.

⁹⁷ Acts 1833-34, ch. 17. Rev. Stat. 1838, ch. 21, secs. 33, 34. Rev. Stat. 1843, ch. 7, sec. 34. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29, secs. 1, 2. Acts 1919, ch. 185, sec. 1. Acts 1929, ch. 2, sec. 1. Acts 1935, ch. 184, secs. 1, 2.

reports of the circuit judge concerning his examination of the office of the clerk of the circuit court (1852 to 1909);⁹⁸ and appointed an appraiser (taxes, 1841 to 1872),⁹⁹ assessors (taxes, 1836 to 1841),¹⁰⁰ constables (1836 to 1853),¹⁰¹ a county agent (1836 to 1853),¹⁰² election inspectors (1836 to 1929),¹⁰³ a drainage commissioner (1885 to 1933),¹⁰⁴ overseers of the poor (1836 to 1853),¹⁰⁵ a poundkeeper (1836 to 1853),¹⁰⁶ road commissioners (1836 to 1865),¹⁰⁷ road supervisors (township or district, 1836 to 1853),¹⁰⁸ school superin-

⁹⁸ 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the state examiner instead of the circuit judge. Acts 1909; Burns 60-211; Baldwin 13862. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁹⁹ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁰⁰ Rev. Laws 1824, ch. 86, secs. 5-7, 29, 42. Rev. Laws 1831, ch. 81, secs. 3, 4. Rev. Stat. 1838, ch. 21, sec. 12. Rev. Stat. 1843, ch. 4, secs. 2, 160; ch. 5, sec. 1; ch. 7, sec. 61.

¹⁰¹ Acts 1817-18 (general), ch. 31, sec. 1. Rev. Laws 1824, ch. 13, secs. 1, 6; ch. 15, sec. 7. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, secs. 20-22. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 70, 71. 1 Rev. Stat. 1852, ch. 115, sec. 4. 2 Rev. Stat. 1852, pt. 4, ch. 2, sec. 1.

¹⁰² Acts 1817-18 (special), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 4. Rev. Stat. 1838, ch. 93, sec. 4. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52, ch. 2.

¹⁰³ Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. Laws 1824, ch. 15, sec. 7; ch. 35, sec. 1; ch. 36, sec. 5. Rev. Laws 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, secs. 3, 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 10, 11. Acts 1889, ch. 87, secs. 3, 4. Acts 1897, ch. 131. Acts 1901, ch. 201.

These laws were superseded as to primary elections by an act of 1915 and as to general elections by an act of 1929. Acts 1915, ch. 105, secs. 5, 7. Acts 1929, ch. 150.

¹⁰⁴ Acts 1825 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

¹⁰⁵ Acts 1817-18 (general), ch. 14, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 72, secs. 1, 2. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 79, sec. 9. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71. 1 Rev. Stat. 1852, ch. 81, secs. 1, 2; ch. 110, secs. 5, 17.

¹⁰⁶ Acts 1817-18 (general), ch. 68, sec. 8. Rev. Laws 1824, ch. 15, sec. 7; ch. 39, sec. 11. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, secs. 49, 146, 160; ch. 7, sec. 20. 1 Rev. Stat. 1852, ch. 92.

¹⁰⁷ Acts 1816-17, ch. 8, sec. 4. Acts 1822-23, ch. 25, sec. 5. Rev. Stat. 1838, ch. 91, secs. 66, 67, 75, 79. Rev. Stat. 1843, ch. 16, secs. 5, 6. 1 Rev. Stat. 1852, ch. 48, secs. 1-4, 46; ch. 115, sec. 4. Acts 1865 (Spec. Sess.), ch. 29, secs. 2, 3.

¹⁰⁸ Acts 1817-18 (general), ch. 43, secs. 11, 21. Acts 1822-23, ch. 76, sec. 2. Rev. Laws 1824, ch. 87, sec. 12. Rev. Stat. 1838, ch. 91, secs. 34-38. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160;

tendents and trustees (lands and funds, 1836 to 1853),¹⁰⁹ a tax collector (1836 to 1841),¹¹⁰ tobacco inspectors (1836 to 1857),¹¹¹ and a treasurer (1836 to 1841).¹¹²

The board of commissioners has always had the power to establish, construct, and maintain roads. From 1879 until 1913 the board constituted, ex officio, a board of turnpike directors for the management and control of all free turnpikes in the county. The board divided the county into three districts, and each director had personal supervision of one district.¹¹³ Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commissioners, have had charge of the construction and maintenance of county highways.¹¹⁴

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;¹¹⁵ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;¹¹⁶ determine, on proper petition, the order in which county road projects shall be established and constructed, in the event two or more petitions

ch. 5, secs. 69, 71; ch. 16, secs. 75-79. 1 Rev. Stat. 1852, ch. 102, secs. 1-4. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1881 (Spec. Sess.), ch. 63, secs. 1, 25. Acts 1905, ch. 167, sec. 79. Acts 1919, ch. 112, sec. 18. Acts 1921, ch. 262, sec. 47.

¹⁰⁹ Acts 1816-17, ch. 12, sec. 1. Acts 1817-18 (general), ch. 49, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 22, secs. 2, 3; ch. 97, sec. 1. Rev. Laws 1831, ch. 20, sec. 25. Rev. Stat. 1838, ch. 21, sec. 25. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

¹¹⁰ Rev. Laws 1824, ch. 86, secs. 18, 42. Rev. Laws 1831, ch. 81, secs. 17, 18. Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

¹¹¹ Acts 1816-17, ch. 11, sec. 4. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 50, secs. 1-6. Rev. Stat. 1833, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

¹¹² Acts 1816-17, ch. 17, secs. 2, 3. Acts 1817-18 (general), ch. 44, secs. 2, 3. Rev. Laws 1824, ch. 15, sec. 7; ch. 23, secs. 1, 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18.

¹¹³ Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

¹¹⁴ Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

¹¹⁵ Acts 1929; Burns 32-105; Baldwin 4879.

¹¹⁶ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

for such projects are on file with the auditor at the same time;¹¹⁷ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.¹¹⁸

A regular session of the board of commissioners begins on the 1st Monday of each month and continues so long as the necessary business of the session requires.¹¹⁹ Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.¹²⁰ Any two members constitute a quorum to do business.¹²¹ The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.¹²² All meetings of the board are open to the public.¹²³ The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.¹²⁴ Whenever, in the trial of any cause, two or more members of the board are disqualified, the judge of the circuit court appoints special commissioners to act in their places.¹²⁵ Members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify, during any session of the board and while going to and returning from the same.¹²⁶

Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.¹²⁷ Appeals are specifically provided for in proceedings concerning claims against the county,¹²⁸ removal of the county

¹¹⁷ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

¹¹⁸ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

¹¹⁹ Acts 1899; Burns 26-550; Baldwin 5221.

¹²⁰ Acts 1863, 1899; Burns 26-607 to 26-610; Baldwin 5222 to 5225.

¹²¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215.

¹²² 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

¹²³ 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

¹²⁴ 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

¹²⁵ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

¹²⁶ 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

¹²⁷ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. *State ex rel. Starry v. Board of County Comrs.* (1893), 136 Ind. 207, 35 N. E. 1100; *State ex rel. Sink v. Circuit Court* (1938), 214 Ind. 323, 15 N. E. (2d) 624.

¹²⁸ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

seat,¹²⁹ licensing of public ferries,¹³⁰ establishment or modification of townships,¹³¹ and in highway matters.¹³²

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.¹³³

PROCEEDINGS AND REPORTS

1. COMMISSIONER'S DOCKET, 1864-1931. 12 vols. (1-12).
Discontinued.

Record of filing of instruments in commissioners court, showing date of filing, names of principals, nature of instrument, and action taken. Arr. chron. by dates of filing. No index. Hdw. 500 pp. 18 x 12 x 3. 8 vols., 1864-1911, bsmt. stor. rm.; 4 vols., 1912-31, aud. vt.

2. COMMISSIONER'S RECORD, 1836-. 31 vols. (A-Z, AA-DE). Minutes of meetings of board of commissioners, showing date and place of meeting, names of members present, subjects discussed, and action taken. Also contains: Liquor License Record, 1836-97, entry 10; Claim and Allowance Record, 1836-83, entry 17; Road Record, 1836-53, 1917-, entry 23; Official Bond Record, 1853-1911, entry 272. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. 1836-June 1901, hdw.; July 1901-, typed. 500 pp. 18 x 12 x 4. Aud. off.

3. INDEX TO PAPERS AND BOXES, 1837-. 1 vol. (1).

Index to Incorporation of Towns, entry 4; Auditor's Reports, entry 5; Report of Board of Charities, entry 6; County Asylum Monthly Reports, entry 7; Railroad Election and Franchises, entry 8; Bids, Contracts, and Bonds, entry 14; Bids and Contracts for Stationery and Supplies, entry 15; Specifications, Bids, Contracts, and Bonds, entry 16; Claims of State Institution, entry 19; Road Claims, entry 20; Public Highway Papers, entry 25; Ditch Papers, entry 27; Requisitions for Appropriations and Supplies, entry 29; Tax Levies, entry 183; Public Depository Bonds and Proposals, entry 185; Monthly Report of Depository Interest, entry 187;

¹²⁹ Acts 1835 (Spec. Sess.); Burns 26-410.

¹³⁰ 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

¹³¹ Acts 1859, 1939; Burns, 1939 suppl., 26-701; Baldwin, 1939 suppl., 16055. *State ex rel.*

Sink v. Circuit Court (1938), 214 Ind. 323, 15 N. E. (2d) 624.

¹³² Acts 1905; Burns 36-1501; Baldwin 8858.

¹³³ 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

Docketing claims. Acts 1897; Burns 26-806; Baldwin 5256.

Board of Accounts Reports, entry 215; Clerk's Reports, entry 216; Treasurer's Reports, entry 217; Sheriff's Reports, entry 218; Recorder's Reports, entry 219; Highway Superintendent's Reports, entry 221; Dog Tax Reports, entry 222; Trustee Vouchers, entry 224; Miscellaneous Receipts, entry 239; Certified Assessments on Ditches and Roads, entry 251; School Fund Reports, entry 266; Miscellaneous Bonds, entry 270; Bonds T[o]w[nshi]p, Trustees and Assessors, entry 271, showing names of principals, date and title of document, and file box reference. Arr. alph. by names of principals and titles of documents. Hdw. 600 pp. 18 x 14 x 3. Aud. vt.

4. INCORPORATION OF TOWNS, 1837-. 1 f. b. (88).

Original instruments of incorporation of towns, including town plate and petitions for annexation and disannexation, showing date of instrument, and names of petitioners and town. Arr. chron. by dates of instruments. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

5. AUDITOR'S REPORTS, 1860-. 1 f. b. (58).

Auditor's reports to board of commissioners of fees collected, showing date of report, and kind and amount of fees. Arr. chron. by dates of reports. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

6. REPORT OF BOARD OF CHARITIES, 1888-1933. 1 f. b. (70).

Reports to board of commissioners by county board of charities on condition of health facilities at county poor asylum and jail, showing date of report, names of institution and board members, and nature of report. Arr. chron. by dates of reports. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

7. COUNTY ASYLUM MONTHLY REPORTS, 1921-. 2 f. b. (71, 77).

Claims for maintenance of county asylum, showing date, amount, and number of claim; names of claimant and asylum superintendent; and kind, quantity, and cost of items purchased. Arr. chron. by dates of claims. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

8. RAILROAD ELECTION AND FRANCHISES, 1873-1915. 1 f. b. (85).

Petitions for railroad franchises and orders for elections on franchises, showing dates of petition, order, election, and filing; names of petitioners, railroad, and voting places; route of railroad; and conditions of franchise. Arr. chron. by dates of filing. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

LIQUOR LICENSES

9. LIQUOR LICENSE APPLICATION, 1891-1908. 1 f. b. (99). Applications and proofs of publication for licenses to sell alcoholic beverages, showing dates of application and proof, name of applicant, and location of business. Arr. chron. by dates of applications. No index. Hdw. 10 x 5 x 14. Aud. vt.

10. LIQUOR LICENSE RECORD, 1898-1909. 6 vols. (1, 1-5) 1836-97 in Commissioners' Record, entry 2. Abolished by local option, 1910.

Record of actions and proceedings for retail liquor licenses, including:

- i. Applications, showing date of application, name of applicant, and location and description of place of business.
- ii. Proofs of publication, showing date of publication; names of applicant, publisher, and publication; and publisher's affidavit.
- iii. Orders of board of commissioners of acceptance or rejection, showing date of acceptance or rejection and order.
- iv. Transcripts of retailers' bonds, showing date, number, amount, and conditions of bond; name of retailer; and location of place of business.

Arr. chron. by dates of applications. Indexed alph. by names of applicants. Hdw. 450 pp. 18 x 12 x 2. Bsmt. ster. rm.

BOND ISSUES

11. BOND REGISTER, 1911-. 1 vol. (1).

Record of all bond issues, showing date of issue, amount of bond, rate of interest, names of project and purchaser, and dates and amounts of payments of interest and redemption. Also contains: Free Gravel and Macadam Road Bonds and Coupons, 1911-23, entry 12; Road and Miscellaneous Appropriations and Disbursements, 1926-, entry 245. Arr. chron. by dates of issue. Indexed alph. by names of projects. Hdw. 500 pp. 18 x 13 x 2½. Aud. vt.

12. FREE GRAVEL AND MACADAM ROAD BONDS AND COUPONS, 1924-. 1 vol. 1911-23 in Bond Register, entry 11.

Record of bond issues for construction and maintenance of free gravel and macadam roads, showing date of issue, amount of bond, names of township and purchaser, and dates of payments of interest and redemption. Arr. by twps. No index. Hdw. 200 pp. 20 x 11 x 1½. Aud. vt.

BIDS AND CONTRACTS

13. BIDDERS RECORD, 1934-. 1 vol.

Record of bids submitted for materials and supplies, showing dates of notice, bid, and contract; nature and amount of bid; name of bidder; and action of board of commissioners. Arr. chron. by dates of bids. No index. Hdw. 500 pp. 12 x 14 x 3. Aud. off.

14. BIDS, CONTRACTS, AND BONDS, 1892-. 4 f. b. (50, 56, 57, 112).

Original bids, contracts, and bonds for construction and maintenance of county roads and buildings, showing dates of bid, contract, bond, and filing; names of project, bidder, contractor, and sureties; and amounts and conditions of bid, contract, and bond. Arr. chron. by dates of filing. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

15. BIDS AND CONTRACTS FOR STATIONERY AND SUPPLIES, 1923-. 1 f. b. (46).

Bids submitted and contracts executed for furnishing county office supplies and equipment, showing date, amount, and conditions of bid and contract; names of bidder and contractor; kinds of supplies and equipment; and dates of acceptance and filing. Arr. chron. by dates of filing. For index, see entry 3. Typed. 10 x 5 x 14. Aud. vt.

16. SPECIFICATIONS, BIDS, CONTRACTS, AND BONDS, 1916-31. 2 f. b. (83, 84).

Original specifications, bids, contracts, and bonds for the construction, repair, and maintenance of county courthouse, showing date of filing; names of bidder and contractor; and dates, conditions, and amounts of bids, contracts, and bonds. Arr. chron. by dates of filing. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

CLAIMS AND ALLOWANCES

17. CLAIM AND ALLOWANCE RECORD, 1884-. 16 vols. (1-4, 4-9, 1-6). Title varies: Allowance Docket, 1884-1911, 10 vols. 1836-83 in Commissioners' Record, entry 2.

Record of claims filed and allowances made thereon, showing date of filing; date, number, nature, and amount of claim; name of claimant; date, number, nature, and amount of warrant; and names of payee and fund. Also contains: Pike Directors Allowance Docket, 1932-, entry 18. Arr. chron. by dates of filing. No index. Hdw. 550 pp. 18 x 14 x 4. 13 vols., 1884-1927, bsmt. stor. rm.; 3 vols., 1928-, aud. vt.

18. PIKE DIRECTORS ALLOWANCE DOCKET, 1879-1931. 6 vols. (one vol. not labeled, 1-5). 1932- in Claim and Allowance Record, entry 17.

Record of allowances for construction and maintenance of county roads, showing date, amount, and number of claim; names of claimant and road; nature of claim; and date and amount of allowance. Arr. chron. by dates of allowances. No index. 1879-1910, hdw.; 1911-31, typed. 5 vols., 1879-1910, bsmt. stor. rm.; 1 vol., 1911-31, aud. vt.

19. CLAIMS OF STATE INSTITUTION, 1871-. 2 f. b. (103, 104).

Claims for clothing supplied inmates of state institutions, showing dates of filing and claim, names of institution and inmate, kind and quantity of clothing, and total amount of claim. Arr. chron. by dates of filing. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

20. ROAD CLAIMS, 1933-. 6 f. b.

Monthly claims of highway supervisor for mileage and per diem for work performed, showing date of claim and filing, date and nature of work performed, name of district, mileage, and total amount of claim. Arr. chron. by dates of filing. For index, see entry 3. Typed. 10 x 5 x 14. Aud. vt.

21. BURIAL RECORD OF SOLDIERS, SAILORS AND MARINES, 1890-1902. 1 vol. (1).

Record of commissioners' allowances for burial expenses of deceased soldiers, sailors, and marines, showing name, address, and age of decedent; date of death; date and place of burial; and itemized statement of expense. Arr. alph. by names of decedents. No index. Hdw. 400 pp. 18 x 12 x 2. Bsmt. stor. rm.

PUBLIC IMPROVEMENTS

(See also entries 192-195, 243-246, 323-328)

ROADS

22. INDEX OF ROADS, 1837-. 1 vol. (1).

Partial index to road records in Commissioners' Record, 1837-53, entry 2, and Road Record, 1854-1903, entry 23, showing date of action; names of road, township, and parties; section, range, and township numbers; and volume and page reference to recording. Arr. alph. by names of roads. Hdw. 200 pp. 18 x 12 x 2. Aud. vt.

23. ROAD RECORD, 1854-1916. 3 vols. (1-3). 1886-53, 1917- in Commissioners' Record, entry 2.

Record of proceedings for construction and maintenance of highways, showing dates of meetings, transcripts of petitions, remonstrances, and viewers' reports; names of road, petitioners, remonstrators, and viewers; and location and description of road. Arr. chron. by dates of meetings. Indexed alph. by names of roads; for separate index, 1854-1903, see entry 22. 1854-1901, hdw.; 1902-16, typed. 550 pp. 18 x 12 x 3. Aud. vt.

24. RECORD OF PIKE DIRECTORS, 1879-1910. 4 vols. (three vols. not labeled, 2). Discontinued.

Minutes of meetings of board of turnpike directors, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. 1879-1901, hdw.; 1902-10, typed. 320 pp. 18 x 12 x 1½. Bsmt. stor. rm.

25. PUBLIC HIGHWAY PAPERS, 1883-1934. 24 f. b. (1-24). Original petitions for construction and maintenance of highways, showing dates of petition and filing; names of petitioners and road; property to be vacated; kind of grade; and location of culverts, bridges, and curbs. Arr. chron. by dates of petitions. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

DITCHES

26. DITCH RECORD, 1877-. 4 vols. (A-D).

Record of actions and proceedings for construction and maintenance of ditches, showing date of action; names of members present; location and description of ditch; transcripts of petitions, remonstrances, viewers' reports, and surveyor's opinions; estimates of cost; amount of fees incurred for investigation; and commissioners' order of acceptance or rejection. Arr. chron. by dates of actions. Indexed alph. by names of ditches. Hdw. 500 pp. 12 x 24 x 4. Aud. vt.

27. DITCH PAPERS, 1877-1932. 16 f. b. (25-40).

Original petitions for construction of drainage ditches, showing dates of petition and filing; names of petitioners, ditch, and property owners; location of ditch; location and description of property benefited; and action taken. Arr. chron. by dates of petitions. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

II. COUNTY COUNCIL

LEGAL STATUS

The Jay County Council exists under the mandatory provisions of an act of 1899, commonly referred to as the County Reform Law.¹ The council is composed of seven members. Each councilman is elected for a term of 4 years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts; and one councilman is elected by the voters of each district. Three councilmen at large are elected by the voters of the whole county.² Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor.³ Members of the first council were appointed in 1899 by the judge of the circuit court.⁴ The county auditor, in person or by deputy, serves as clerk of the county council.⁵ At an organization meeting held on the 2d Saturday after its election, the council chooses from its members a presiding officer and a presiding officer *pro tem*, who serve for the terms of their respective offices as councilmen.⁶

Each member must have been an inhabitant of the county throughout 1 year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any state, township, or municipal office.⁷ Each councilman must take an oath that he will support the state and federal constitutions and that he will faithfully and honestly perform his duties as councilman.⁸

¹ Acts 1899; Burns 26-501; Baldwin 5365.

² Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

³ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁴ Acts 1899; Burns 26-548.

⁵ Acts 1899; Burns 26-509; Baldwin 5373.

⁶ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

⁷ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368.

State *ex rel.* Workman v. Goldthait (1909). 172 Ind. 210, 87 N. E. 133.

⁸ Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

A councilman receives a salary of \$10 per year plus \$10 for each day served at special meetings of the council.⁹ Before 1927 there was no additional compensation for serving at special meetings.¹⁰ From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary of \$2,240 has been compensation for his regular duties and also his duties as clerk of the county council.¹¹

For sufficient legal grounds any councilman may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If any councilman is convicted of a felony the judgment of conviction must declare his office vacant.¹³ The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties; and no law specifically provides for a review of such expulsion.¹⁴ Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.¹⁵

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁶ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁷

⁹ Acts 1899, 1927; Burns 26-503; Baldwin 5367.

¹⁰ Acts 1899, ch. 154, sec. 3.

¹¹ Acts 1899; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

¹⁵ Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

¹⁶ Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap* (1934), 206 Ind. 474, 190 N. E. 178.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22.

FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates,¹⁸ authorizes the borrowing of money for the county,¹⁹ authorizes the county, to purchase, sell, or convey real estate of the value of \$1,000 or more,²⁰ and fixes the amounts of salaries of deputy officers and other assistants of county officers.²¹ In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.²² Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment or the state board of tax commissioners.²³ In mandamus proceedings the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.²⁴ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than 5 percent per annum can be issued without the approval of said board.²⁵

The county council and the board of commissioners, acting together, approve the acceptance of lands given or devised to the county for purposes of a public forest;²⁶ hold hearings

¹⁸ Acts 1899, 1931; Burns 26-507, 26-515, 26-520; Baldwin 5371, 5379, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

²⁰ Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

²¹ Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

²³ Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁴ Acts 1899; Burns 26-528; Baldwin 5392. State *ex rel.* Simpson v. Meeker (1914), 182 Ind. 240, 105 N. E. 906; State *ex rel.* Test v. Steinwedel (1932), 203 Ind. 457, 180 N. E. 865; Blue v. State *ex rel.* Powell (1935), 210 Ind. 466, 1 N. E. (2d) 122.

²⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736. Citizens Bank v. Burnettsville (1932), 98 Ind. App. 92, 179 N. E. 724.

²⁶ Acts 1929; Burns 32-105; Baldwin 4879.

on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;²⁷ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;²⁸ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.²⁹

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase, for less than par, any bond, warrant, claim, or demand against the county.³⁰

The county council holds a regular annual meeting on the 1st Tuesday after the 1st Monday of September of each year. Special meetings may be called by the auditor or a majority of the members of the council.³¹ The sessions are open to the public and may continue until all business is completed.³² A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.³³ A greater vote is required in order to expel a member (two-thirds),³⁴ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths).³⁵ adopt appropriations at a special meeting (two-thirds),³⁶ and to levy taxes for the maintenance of county roads (unanimous).³⁷ The sheriff, in person or by deputy, attends the sessions of the council and executes its orders.³⁸

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record

²⁷ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

²⁸ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

²⁹ Acts 1935; Burns, 1939 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

³⁰ Acts 1899; Burns 26-513, 26 514; Baldwin 5377, 5378.

³¹ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

³² Acts 1899; Burns 26-508; Baldwin 5372.

³³ Acts 1899; Burns 26-511; Baldwin 5375.

³⁴ Acts 1899; Burns 26-512; Baldwin 5376.

³⁵ Acts 1899; Burns 26-520; Baldwin 5384.

³⁶ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385.

³⁷ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

³⁸ Acts 1899; Burns 26-510; Baldwin 5374.

of its proceedings.³⁹ He keeps separate accounts for each specific item of appropriation made by the council.⁴⁰

28. RECORD OF COUNTY COUNCIL, 1899-. 2 vols. (1, 2).

Minutes of meetings of county council, showing date and place of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. 1899-1900, hdw.; 1901-, typed. 600 pp. 20 x 10 x 5. 1 vol., 1899-1927, aud. vt.; 1 vol., 1928-, aud. off.

29. REQUISITIONS FOR APPROPRIATIONS AND SUPPLIES, 1901-. 2 f. b. (86, 87).

Budget estimates and requisitions for supplies for county offices, showing dates of instrument and filing, names of office and official, itemized list of supplies requested, and amounts requested and appropriated. Arr. chron. by dates of instruments. For index, see entry 3. Hdw. and typed. 10 x 4 x 14. Aud. vt.

III. CLERK OF THE CIRCUIT COURT

LEGAL STATUS

The office of clerk of the circuit court was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Jay County since its organization in 1836. The clerk of the circuit court (commonly referred to as "county clerk") is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴ The clerk

³⁹ Acts 1899; Burns 26-509; Baldwin 5373. State *ex rel.* Van Der Veer v. Butcher (1933), 205 Ind. 117, 185 N. E. 908.

⁴⁰ Acts 1899; Burns 26-523; Baldwin 5387.

¹ Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (special), ch. 3, secs. 1, 3. Rev. Laws 1824, ch. 36, secs. 1, 3. Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder.⁸ The clerk must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 the clerk was elected for a 7-year term and could hold the office of recorder.¹⁰

The clerk of the circuit court receives a regular salary of \$1,920 per year.¹¹ He receives \$125 for his services rendered at each general election, primary election, or special election.¹² For each registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding 4 cents; and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for additional services rendered by him as registration officer.¹³ He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the governor's office, to receive state ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

⁸ Acts 1816-17, ch. 2, sec. 4. Rev. Laws 1824, ch. 24, sec. 3. Rev. Stat. 1838, ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703, 49-2704; Baldwin 1430, 1431.

⁹ Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Acts 1817-18 (special), ch. 3, sec. 3. Rev. Laws 1824, ch. 24, sec. 3. Rev. Laws 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-104; Baldwin 13054, 13057.

¹⁰ Const. 1816, art. 5, sec. 8; art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1871, ch. 17, sec. 24. Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1935; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

¹³ Acts 1933, 1935; Burns, 1939 suppl., 29-329; Baldwin, 1935 suppl., 7327.

Colony, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for services in connection with warrants issued by the state department of treasury for the collection of gross income taxes; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.¹⁴

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹⁵ If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.¹⁶

Any vacancy in the office of clerk of the circuit court is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁷

The clerk may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.¹⁸ The clerk may

¹⁴ Acts 1841-42 (general), ch. 119, sec. 1. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1001, 49-1005, 49-1007; Baldwin 7531, 7535, 7537. Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565. Acts 1933, 1937; Burns, 1939 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). *Opinions of the Attorney General of Indiana, 1938*, p. 303; *1939*, p. 258.

¹⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁷ Const. 1851, art. 6, sec. 9. Acts 1817-18 (general), ch. 17, secs. 1, 8. Rev. Laws 1824, ch. 10, sec. 4; ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. *Opinions of the Attorney General of Indiana, 1936*, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁸ Acts 1871, ch. 17, sec. 25. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; *1937*, p. 324.

require the deputy to give bond.¹⁹ The deputy must take the oath required of the clerk, may perform all the official duties of the clerk, and is subject to the same regulations and penalties.²⁰ The clerk may remove such deputy and assistants at any time, and is responsible for their official acts.²¹

FUNCTIONS AND RECORDS

The clerk of the circuit court files and keeps a record of official bonds and oaths of certain county and township officers. He approves some of these bonds and administers some of these oaths.²² He approves and files the official bonds of notaries public, and he administers and files their official oaths.²³ Bonds of collection agencies are filed by the clerk after being approved by the judge of the circuit court. The clerk's receipt for such bond must accompany any application to the secretary of state for a license to operate a collection agency.²⁴ He keeps a general index to various bonds approved or filed by him.

The clerk issues licenses for marriages. He records these licenses, the applications therefor, and certificates of marriage; and he makes monthly reports to the county health officer concerning marriages.²⁵

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

²¹ Rev. Laws 1824, ch. 10, sec. 2. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1816-17, ch. 2, sec. 3; ch. 11, sec. 4; ch. 13, secs. 3, 4; ch. 19, sec. 1; ch. 39, sec. 1. Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3; ch. 72, sec. 1. Acts 1817-18 (special), ch. 3, sec. 3. Acts 1818-19, ch. 2, sec. 1. Rev. Laws 1824, ch. 13, sec. 2; ch. 24, sec. 3; ch. 73, sec. 31. Rev. Laws 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. 2 Rev. Stat. 1852, Acts 1861; Burns 5-118; Baldwin 1847. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1889; Burns 49-3003; Baldwin 5417. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. Acts 1919, 1921; Burns 64-1001, 64-1101; Baldwin 15666, 15696. Acts 1915; Burns 65-103; Baldwin 16061.

²³ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

²⁴ Acts 1937; Burns, 1939 suppl. 10-5001, 10-5002; Baldwin, 1937 suppl., 2468-5, 2468-6.

²⁵ Acts 1817-18 (general), ch. 34, secs. 3, 4, 6, 7. Rev. Stat. 1838, ch. 68, secs. 3, 6. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. 1 Rev. Stat. 1852, Acts 1939; Burns, 1939 suppl., 44-201; Baldwin,

The clerk issues licenses for physicians, surgeons,²⁶ midwives,²⁷ osteopaths,²⁸ chiropractors, drugless healers,²⁹ dentists,³⁰ optometrists,³¹ hunting, trapping, fishing,³² poultry dealers,³³ junk dealers,³⁴ and for carrying pistols.³⁵

1939 suppl., 5622. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917; Burns 44-205; Baldwin 5625. Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Before March 1, 1940 (the effective date of the 1939 law) a marriage license could be issued only in "the county in which the female resides." In 1938 the supreme court held that an injunction could be granted to prevent the clerk from violating this law. *Sweigart v. State* (1938), 213 Ind. 157, 12 N. E. (2d) 134. The 1939 law provided that the license may be issued in "the county in which application for such license is made."

The 1939 law provides that each applicant for a license must present a medical certificate showing that the applicant is not infected with communicable syphilis, but this provision may be waived by the judge of the circuit court "because of emergency or other causes shown by affidavit or other proof." Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Common law marriage. *Young v. General Baking Co.* (1938), 104 Ind. App. 658, 12 N. E. (2d) 1016.

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington* (1938), 213 Ind. 347, 12 N. E. (2d) 758.

²⁶ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

²⁷ Acts 1897; Burns 63-1309; Baldwin 10709.

²⁸ Acts 1901; Burns 63-1316; Baldwin 10716.

²⁹ Acts 1927; Burns 63-1312; Baldwin 10713.

³⁰ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1939 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

³¹ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1939 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

³² Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1939 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, secs. 161.

No fee for fishing licenses issued to resident females. *Opinions of the Attorney General of Indiana, 1939*, p. 160.

³³ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

³⁴ Acts 1905; Burns 42-703; Baldwin 10462.

³⁵ The law authorizes the judge of the circuit court to issue these licenses and does not mention the clerk. In issuing a license the clerk acts for the judge after the judge has approved a written application therefor. One copy of the license must be mailed to the superintendent of state police and another copy must be preserved for 6 years "by the authority issuing said license." The term of the license cannot exceed 1 year. Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

Laws of 1925 and 1929 (repealed in 1935) authorized the clerk to issue such licenses. Acts 1925, ch. 207, sec. 7. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21.

Formerly he issued licenses for veterinarians,³⁶ brokers,³⁷ stallions,³⁸ petty money lenders,³⁹ and sale of liquor.⁴⁰

The clerk registers certificates of trained nurses.⁴¹ He records timber brands,⁴² assumed business names,⁴³ trade-marks and trade names used on bottles and other containers,⁴⁴ and certificates of patents granted by the United States Patent Office.⁴⁵ Formerly he kept a negro register,⁴⁶ a register of certificates of agents of foreign insurance companies,⁴⁷ a roll of the attorneys of the county,⁴⁸ and lists of shareholders of all banks doing business in the county;⁴⁹ and he recorded limited partnerships.⁵⁰

The clerk keeps a register of estrays and articles adrift;⁵¹ records appointments of railroad agents for service of process;⁵² records the commissions, oaths, and terminations of authority of railroad policemen;⁵³ administers oaths;⁵⁴ takes acknowledgments of written instruments;⁵⁵ and distributes

³⁶ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

³⁷ Acts 1840-41 (general), ch. 5, sec. 18.

³⁸ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

³⁹ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

⁴⁰ Acts 1917, ch. 4, secs. 6, 12.

⁴¹ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

⁴² Acts 1901; Burns 51-338; Baldwin 13265.

⁴³ Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

⁴⁴ Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

⁴⁵ Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

⁴⁶ 1 Rev. Stat. 1852, ch. 74, sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

⁴⁷ Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

⁴⁸ Rev. Stat. 1843, ch. 38, sec. 93.

⁴⁹ 1 Rev. Stat. 1852, ch. 10, sec. 30.

⁵⁰ Rev. Stat. 1838, ch. 78, secs. 5-7.

⁵¹ Acts 1807, ch. 20, secs. 1-3. Acts 1817-18 (general), ch. 68, secs. 2, 3. Rev. Laws 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

⁵² Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

⁵³ Acts 1927; Burns 55-3402, 55-3408; Baldwin 14648, 14654.

⁵⁴ Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Acts 1818-19, ch. 17, sec. 1. Rev. Laws 1824, ch. 10, sec. 2; ch. 73, sec. 31. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

⁵⁵ Acts 1817-18 (general), ch. 28, sec. 12. Rev. Laws 1824, ch. 82, sec. 12. Rev. Laws 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

session laws enacted by the general assembly.⁵⁶ Formerly the clerk recorded prison bounds;⁵⁷ filed public contracts for support of paupers;⁵⁸ filed enumerations of soldiers and sailors;⁵⁹ kept standards of weights and measures;⁶⁰ kept plats showing changes in routes of roads and canals;⁶¹ and performed the duties of the office of school commissioner if there was no school commissioner.⁶²

The clerk files petitions and remonstrances concerning the establishment of a county public library; and he notifies the judge of the circuit court, the county superintendent of schools, and the board of commissioners of the filing of such petition and any tax levy made for such library.⁶³

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.⁶⁴ He reports to the county auditor and treasurer all fees and fines collected by him.⁶⁵ All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the attorney general.⁶⁶

The clerk keeps the official records of the circuit court,⁶⁷ a cashbook,⁶⁸ a daily balance record,⁶⁹ and a register of

⁵⁶ Acts 1933, 1935; Burns, 1939 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 14956-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

⁵⁷ Acts 1817-18 (general), ch. 32, sec. 1. Rev. Laws 1824, ch. 77, sec. 1. Rev. Laws 1831, ch. 75, sec. 1.

⁵⁸ Rev. Laws 1824, ch. 72, sec. 3. Rev. Laws 1831, ch. 69, sec. 2.

⁵⁹ Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1) Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

⁶⁰ Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. Laws 1824, ch. 116. Rev. Laws 1831, ch. 110.

⁶¹ Rev. Stat. 1838, ch. 17, sec. 56.

⁶² Acts 1836-37 (general), ch. 21, sec. 1.

⁶³ Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁶⁴ Acts 1937; Burns, 1939 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

⁶⁵ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1828-29, ch. 24, secs. 1, 2. Rev. Laws 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 38, sec. 64. Acts 1871, ch. 17, secs. 20, 27. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁶⁶ Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

⁶⁷ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁶⁸ Acts 1871, ch. 17, sec. 19. Acts 1879 (Spec. Sess.): Burns 49-2722; Baldwin 1442.

⁶⁹ Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

fees received by him;⁷⁰ and must preserve in his office all records and writings appertaining to his official duties.⁷¹ On request and payment of a fee therefor, the clerk furnishes certified copies of records and papers on file in his office.⁷²

The state board of accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; register of fees and funds held in trust; record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.⁷³

Other functions, duties, and records of the clerk are discussed in the essays entitled "Board of Primary Election Commissioners," "Circuit Court," "County Board of Canvassers," "County Board of Election Commissioners," "County School Fund Board," and "Registration Officer." Former functions, duties, and records of the clerk which were transferred to the auditor in 1841 are discussed in the essay entitled "Auditor."

OFFICIAL BONDS

(See also entries 270-272)

30. OFFICIAL BOND INDEX RECORD, 1868-. 3 vols. (1-3). Index to Record of Official Bonds, entry 31; Miscellaneous Bonds, entry 33; Constables, Justices, Notaries Bonds, entry 34; Justice of the Peace Bond Record, entry 35; Notary Public Bond Record, entry 36; Recognizance Order Book, entry 128, showing date, amount, and kind of bond; name of principal; and volume and page reference to recording. Arr. alph. by names of principals. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

31. RECORD OF OFFICIAL BONDS, 1843-. 3 vols. (A, 1, 2). Record of bonds posted by county and township officials, showing date, amount, and conditions of bond; and names of

⁷⁰ Acts 1871, ch. 17, sec. 19. Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

⁷¹ Acts 1817-18 (general), ch. 13, sec. 2; ch. 66, sec. 4. Rev. Laws 1824, ch. 10, sec. 1. Acts 1829-30, ch. 10, sec. 1. Rev. Laws 1831, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁷² Acts 1817-18 (general), ch. 13, sec. 18. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. 2 Rev. Stat. 1852; Burns 49-2707; Baldwin 1434.

⁷³ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

official, office, and sureties. Also contains: Miscellaneous Bond Record, 1843-1914, entry 33; Constables, Justices, Notaries Bonds, 1843-73, entry 34. Arr. chron. by dates of bonds. Indexed alph. by names of officials; for separate index, 1868-, see entry 30. 1842-1902, hdw.; 1902-, typed. 300 pp. 12 x 12 x 2. Clk. off.

32. [MISCELLANEOUS CLERK'S DOCUMENTS], 1831-. In [Miscellaneous Court Documents], entry 97.

Miscellaneous documents filed with clerk of the circuit court, including:

- i. Original bonds posted by county and township officials, showing date, number, amount, and conditions of bond; names of official and sureties; and date of filing.
- ii. Original bonds posted by notaries public 1918-, showing same information as in entry 36.
- iii. Certificates issued to physicians by state board of registration and examination and submitted to clerk to obtain licenses to practice in state 1897-, showing dates of certificate and filing, kind of practice, and name and address of physician.
- iv. Applications for junk dealers' licenses 1916-, showing dates of application and filing, and name and address of dealer.
- v. Applications for licenses to purchase poultry 1917-, showing dates of application and filing, and name and address of applicant.
- vi. Applications for permits to carry firearms 1926-, showing dates of application and filing; name, age, and address of applicant; number, model, and kind of firearm; and reason for possession.
- vii. Certificates of appointments of deputies by county officials 1902-, showing dates of appointment and filing, and names of official and deputy.

33. MISCELLANEOUS BOND RECORD, 1915-. 2 vols. (1,2). 1843-1914 in Record of Official Bonds, entry 31.

Record of miscellaneous bonds, including trustees', recognizance, appeal, injunction, construction, receivers' and drainage commissioners' bonds, and commissioners' bonds to sell real estate, showing date, amount, and conditions of bond; and names of principal and sureties. Also contains: Recognizance Order Book, 1927-, entry 128. Arr. chron. by dates of bonds. Indexed alph. by names of principals; for separate index, see entry 30. Hdw. 300 pp. 22 x 18 x 2. Clk. off.

34. CONSTABLES, JUSTICES, NOTARIES BONDS, 1874-. 1 vol.

(1). 1843-73 in Record of Official Bonds, entry 31. Record of bonds posted by constables, justices of the peace, and notaries public, including:

- i. Constables' bonds, showing date, amount, and conditions of bond; and names of principal and sureties.
- ii. Justices' of the peace bonds, 1874-91, showing same information as in entry 35.
- iii. Notary bonds, 1874-80, showing same information as in entry 36.

Arr. chron. by dates of bonds. Indexed alph. by names of principals; for separate index, see entry 30. Hdw. 250 pp. 18 x 12 x 2. Clk. off.

35. JUSTICE OF THE PEACE BOND RECORD, 1892-. 1 vol. (2).
1843-73 in Record of Official Bonds, entry 31; 1874-91 in Constables, Justices, Notaries Bonds, entry 34.

Record of bonds posted by justices of the peace, showing date, amount, and conditions of bond; names of justice of peace, sureties, and township; and term of office. Arr. chron. by dates of bonds. Indexed alph. by names of justices of the peace; for separate index, see entry 30. Hdw. 200 pp. 24 x 14 x 2. Clk. off.

36. NOTARY PUBLIC BOND RECORD, 1884-. 4 vols. (2-5).
1843-73 in Record of Official Bonds, entry 31; 1874-80 in Constables, Justices, Notaries Bonds, entry 34.

Record of bonds posted by notaries public, showing date, amount, and conditions of bond; and names of notary and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of notaries; for separate index, see entry 30. Hdw. 400 pp. 18 x 12 x 3. Clk. off.

LICENSES AND CERTIFICATES

MARRIAGE (see also entry 291)

37. MARRIAGE APPLICATION AND RETURN RECORD, 1927-. 3 vols. (11-13).

Record of marriage applications, affidavits, licenses, and returns, showing dates of application, license, marriage, and return; names, addresses, ages, dates and places of birth, and occupations of bride, groom, and parents; previous marital status of bride and groom; names of witnesses; and name and

title of person officiating. This is a combination of two records formerly kept separately: Marriage Applications, entry 38; Marriage Record, entry 39. Arr. chron. by dates of applications. Indexed alph. by names of brides and grooms. Hdw. 300 pp. 18 x 14 x 3. Clk. off.

38. MARRIAGE APPLICATIONS, 1905-26. 10 vols. (1-10). 1927- in Marriage Application and Return Record, entry 37.

Record of applications for marriage licenses, showing date of application; names, addresses, age, dates and places of birth, and occupations of bride, groom, and parents; previous marital status of bride and groom; and names of witnesses. Arr. chron. by dates of applications. Indexed alph. by names of brides and grooms. Hdw. 300 pp. 18 x 14 x 3. Clk. off.

39. MARRIAGE RECORD, 1837-1926. 14 vols. (A-N). 1927- in Marriage Application and Return Record, entry 37.

Record of marriage licenses issued and marriage certificates returned, showing dates of license, marriage, and return; names of bride and groom; and name and title of person officiating. Arr. chron. by dates of licenses. Indexed alph. by names of grooms. Hdw. 300 pp. 18 x 14 x 3. Clk. off.

40. MARRIAGE RETURNS, 1837-. 99 bdl., 5 f. b.

Certificates of marriage returned to clerk by persons officiating, showing dates of marriage and return; names, ages, occupations, birthplaces, addresses, and previous marital status of bride and groom; names of parents; and name and title of person officiating. Arr. alph. by names of grooms. No index. Hdw. Bdl., 8 x 4 x 1, f. b., 10 x 4 x 14. Clk. off.

41. MARRIAGE AFFIDAVITS, 1863-90. 3 vols.

Record of affidavits of witnesses attesting to facts as stated in applications for marriage licenses, showing date and conditions of affidavit, and names of affiant and applicants. Arr. chron. by dates of affidavits. No index. Hdw. 350 pp. 18 x 12 x 3. 2 vols., 1863-80, bsmt. stor. rm.; 1 vol., 1868-90, clk. off.

PHYSICIANS

42. RECORD OF PHYSICIANS' LICENSE, 1897-. 1 vol. (1).

Record of certificates issued by state board of medical registration and examination and licenses issued by clerk to practice medicine, surgery, and obstetrics in state, showing dates of certificate and license; name, age, address, and birthplace of physician; and name of medical college attended. Arr. chron. by dates of licenses. Indexed alph. by names of physicians. Hdw. 400 pp. 18 x 12 x 2. Clk. off.

43. DRUGLESS PHYSICIAN'S LICENSE RECORD, 1928-. 1 vol.

Record of licenses issued to drugless physicians to practice in county upon presentation of certificates issued by state board of medical registration and examination, showing dates of certificate, license, diploma, and birth of physician; name and birthplace of physician; name and address of college attended; certificate number; and nature of practice. Arr. alph. by names of physicians. No index. Hdw. 100 pp. 18 x 12 x 1. Clk. off.

DENTISTS

44. DENTIST'S RECORD, 1899-. 1 vol.

Record of certificates issued by state board of dental examiners and licenses issued by clerk to practice dentistry in county, showing dates of certificate and license; name, age, address, and birthplace of dentist; and name of dental college attended. Arr. chron. by dates of licenses. Indexed alph. by names of dentists. Hdw. 270 pp. 18 x 12 x 1. Clk. off.

OPTOMETRISTS

45. OPTOMETRY PRACTICE RECORD, 1907-. 1 vol.

Record of certificates issued by state board of registration and examination in optometry and licenses issued by clerk to practice optometry in county, showing dates of certificate and license, and name and address of optometrist. Arr. chron. by dates of licenses. Indexed alph. by names of optometrists. Hdw. 150 pp. 16 x 9 x 1. Clk. off.

NURSES

46. REGISTER OF TRAINED NURSES, 1910-. 1 vol. (1).

Register of trained nurses licensed to practice in county, showing date of registration, name and address of nurse, and certificate number. Arr. alph. by names of nurses. No index. Hdw. 300 pp. 9 x 12 x 2. Clk. off.

COMMERCIAL

47. JUNK DEALER'S LICENSE RECORD, 1905-. 1 vol.

Record of licenses issued by clerk to purchase junk in county, showing date and duration of license, name of dealer, and location of business. Arr. chron. by dates of licenses. Indexed alph. by names of dealers. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

48. RECORD OF POULTRY DEALERS LICENSE, 1917-. 1 vol.

Record of applications and licenses issued to purchase poultry in state, showing dates of application and license, name of

dealer, location of business, and duration of license. Arr. chron. by dates of licenses. Indexed alph. by names of dealers. Hdw. 500 pp. 16 x 9 x 3. Clk. off.

49. REGISTER OF INSURANCE CERTIFICATES, 1875-1919. 3 vols. (1-3). Title varies: Insurance Record, 1875-1903, 2 vols. Discontinued. Agents' licenses as now issued are valid in all counties.

Register of certificates issued by auditor of state to agents of insurance companies authorizing them to transact business in county, showing date of filing, names and addresses of insurance company and agent, and assets and liabilities of company. Arr. chron. by dates of filing. Indexed alph. by names of insurance companies. Hdw. 350 pp. 18 x 12 x 4. Clk. off.

BUSINESS ASSOCIATIONS

50. RECORD OF CERTIFICATE OF PARTNERSHIP, 1909-. 1 vol. (1). Register of certificates of firms and partnerships, showing date of filing, title of firm or partnership, names and residence addresses of members, nature and location of business. Arr. chron. by dates of filing. Indexed alph. by names of firms and partnerships. Hdw. 150 pp. 18 x 12 x 2. Clk. off.

MILITARY

(See also entry 90)

51. ENROLLMENT OF SOLDIERS, THEIR WIDOWS AND ORPHANS, 1886. 1 vol.

Record of enrollment of soldiers and sailors and widows and orphans of deceased soldiers and sailors, showing date of enrollment; name, address, race, rank, branch of service, and date and place of death of veteran; injuries received and diseases contracted in service; period of service; and names and addresses of widow and orphan. Arr. alph. by names of veterans, widows or orphans. No index. Hdw. 200 pp. 18 x 12 x 2. Treas. off.

RECEIPTS AND DISBURSEMENTS

52. CLERK'S DAILY BALANCE AND CASH STATEMENT, 1916-20, June 1922-23, 1926-27, 1931-. 12 vols. (1, 3, 4, 8, 7, 10-16).

Daily record of cash and depository balances, showing date of balance; names of fund and depository; and amounts of previous

and current balances, receipts, disbursements, and deposits. Arr. chron. by dates of balances. No index. Hdw. 380 pp. 10 x 12 x 2. 3 vols., 1917-Jan. 1919, June 1922-23, 1926-27, bsmt. stor. rm.; 9 vols., 1916, Feb. 1919-20, 1931-, clk. off.

53. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1872-84, 1890-Nov. 1911, May 1925-. 8 vols.

Daily record of receipts and disbursements, showing date, amount, and nature of receipt or disbursement; names of payer or payee; and receipt, check, and cause numbers. This is a combination of two records intercurrently kept separately: Clerk's Cash Book of Receipts, Dec. 1911-Apr. 1925, entry 54; Clerk's Cash Book of Disbursements, Dec. 1911-Apr. 1925, entry 55. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 22 x 18 x 3. Clk. off.

54. CLERK'S CASH BOOK OF RECEIPTS, Dec. 1911-Apr. 1925, 2 vols. May 1925- in Cash Book of Receipts and Disbursements, entry 53.

Daily record of receipts, showing date, amount, and nature of receipt; name of payer; and receipt number. Arr. chron. by dates of receipts. No index. Hdw. 300 pp. 22 x 18 x 3. Clk. off.

55. CLERK'S CASH BOOK OF DISBURSEMENTS, Dec. 1911-Apr. 1925, 1 vol. May 1925- in Cash Book of Receipts and Disbursements, entry 53.

Daily record of disbursements, showing date, amount, and nature of disbursement; name of payee; and check number. Arr. chron. by dates of disbursements. No index. Hdw. 300 pp. 22 x 18 x 3. Clk. off.

56. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1895-. 5 vols. (2-6).

Record of receipts and disbursements of fees and funds held in trust, showing dates and amounts of receipt and disbursement; and names of plaintiff, defendant, and payee. Also contains: Register of Witness and Other Fees, 1915-, entry 57. Arr. alph. by names of payees. No index. Hdw. 400 pp. 18 x 12 x 4. Clk. off.

57. REGISTER OF WITNESS AND OTHER FEES, 1884-1914. 4 vols. (one vol. not labeled, 2-4). 1915- in Register of Fees and Funds Held in Trust, entry 56.

Record of receipts and disbursements of witness and other fees, showing dates and amounts of receipt and disbursement; names of plaintiff, defendant, and payee; nature of fees; and check number. Arr. alph. by names of payees. No index. Hdw. 300 pp. 22 x 18 x 3. Clk. off.

58. SUPPORT DOCKET, 1913-. 3 vols. (1-3).

Record of receipts and disbursements for support and alimony, showing date of court order, title and number of cause, names of payer and payee, and dates and amounts of receipts and disbursements. Arr. alph. by names of payers. No index. Hdw. 200 pp. 12 x 9 x 2. Clk. off.

IV. RECORDER

LEGAL STATUS

The office of the recorder was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Jay County since its organization in 1836. The recorder is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to the office for more than 8 years in any 12-year period.⁴ The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁸

¹ Const. 1816, art. 11, sec. 10. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 19, sec. 1. Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2. Carson v. McPhetridge (1860), 15 Ind. 327.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State (1867), 27 Ind. 491.

⁸ Rev. Laws 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State *ex rel.* Lowry v. Davis (1884), 96 Ind. 539; State *ex rel.* Lowry v. Davis (1889), 117 Ind. 307, 20 N. E. 159.

The recorder must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.¹⁰

The recorder receives a regular salary of \$1,240 per year.¹¹ He is permitted to retain as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,760.¹²

For sufficient legal grounds the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹³ If the recorder is convicted of a felony the judgment of conviction must declare his office vacant.¹⁴

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁵

⁹ Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3703; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1933; Burns 49-1001, 49-1005, 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1939 suppl., 49-1009; Baldwin, 1937 suppl., 7539. *Shilling v. State ex rel. Board of County Comrs.* (1901), 158 Ind. 185, 62 N. E. 49.

¹³ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁵ Const. 1851, art. 6, sec. 9. Rev. Laws 1824, ch. 36, sec. 1. Rev. Stat. 1838, ch. 85, sec. 14. Rev. Stat. 1843, ch. 4, sec. 155; ch. 8, sec. 16. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Hedley v. Board of County Comrs.* (1835), 4 Blackf. 131; *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429; *State ex rel. Ault v. Long* (1883), 91 Ind. 351. *Opinions of the Attorney General of Indiana, 1936*, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

The recorder may appoint a deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.¹⁶ The recorder may require the deputy to give bond.¹⁷ The deputy must take the oath required of the recorder, may perform all of the official duties of the recorder, and is subject to the same regulations and penalties.¹⁸ The recorder may remove such deputy and assistants at any time, and is responsible for their official acts.¹⁹

FUNCTIONS AND RECORDS

Laws require the recorder to record the following documents: Deeds;²⁰ land patents;²¹ probated wills;²² decrees

¹⁶ Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁷ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁸ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁹ Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²⁰ Acts 1807, ch. 18, secs. 1, 8, 9. Acts 1817-18 (general), ch. 28, secs. 1, 10. Acts 1819-20, ch. 65, sec. 2. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Acts 1836-37 (general), ch. 9, secs. 9-16. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 24, 25, 48. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14664, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. *Lowry v. Smith* (1884), 97 Ind. 466.

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1925; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1626; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

Tax deeds (1843 to date) and tax certificates (1843 to 1881). Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

Sheriff's deeds. Acts 1881 (Spec. Sess.); Burns 2-4006, 2-4101, 2-4102; Baldwin 629, 619, 620.

Deeds of school lands and deeds connected with school fund loans. Rev. Stat. 1838, ch. 94 (12), sec. 7. Rev. Stat. 1843, ch. 13, secs. 44, 49. Acts 1899; Burns 28-255; Baldwin 6607.

²¹ "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

²² Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

quieting title to lands;²³ partitions of real estate under judicial proceedings;²⁴ mortgages; releases and assignments of mortgages;²⁵ conditional sales contracts;²⁶ federal tax lien notices and releases thereof;²⁷ statutory liens of materialmen, laborers,²⁸ transfermen,²⁹ and owners of stallions;³⁰

²³ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet title Record." and requires an index for that record. *Ibid.*

²⁴ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

²⁵ Acts 1807, ch. 18, secs. 1, 4, 8, 9. Acts 1817-18 (general), ch. 28, sec. 1. Acts 1825-26, ch. 42, sec. 17. Rev. Laws 1831, ch. 41, sec. 7; ch. 77, sec. 1. Rev. Stat. 1838, ch. 44, secs. 7, 12; ch. 85, secs. 1, 4, 8, 9. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 48; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson (1881), 87 Ind. 278; Mechanics' Bldg. Assn. v. Whitacre (1884), 92 Ind. 547; Chandler v. Scott (1891), 127 Ind. 226, 26 N. E. 797; State *ex rel.* McCoy v. Krost (1894), 140 Ind. 41, 39 N. E. 46.

Chattel mortgages before 1935 (old system). Rev. Stat. 1838, ch. 85 (first act), sec. 1; ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1935; Burns, 1939 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13227-17. Voigt v. Morgenthaler Lynotype Co. (1938), 213 Ind. 325, 12 N. E. (2d) 498; Voigt v. Ludlow Typograph Co. (1938), 213 Ind. 329, 12 N. E. (2d) 499.

School fund loans. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 85, sec. 10. Acts 1865; Burns 23-233; Baldwin 6583. Stockwell v. State *ex rel.* Johnson (1885), 101 Ind. 1.

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John (1938), 213 Ind. 171, 12 N. E. (2d) 127.

²⁶ Acts 1935; Burns, 1939 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

²⁷ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

²⁸ Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State *ex rel.* Lyons v. Phillips (1901), 157 Ind. 481, 62 N. E. 12. Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

²⁹ Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

³⁰ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3792.

contracts waiving liens of materialmen, laborers, and building contractors;³¹ releases of vendors' liens;³² old-age assistance awards;³³ leases of lands;³⁴ surveys establishing a meridian line;³⁵ surveyor's field notes;³⁶ maps and plats;³⁷ notices of disputes of easements;³⁸ farm names;³⁹ fence marks;⁴⁰ marks and brands of animals;⁴¹ powers of attorney;⁴² discharges from military service;⁴³ charters and proceedings of corporations and associations;⁴⁴ limited partnerships;⁴⁵

³¹ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

³² Acts 1937; Burns, 1939 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

³³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

³⁴ Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120.

³⁵ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

³⁶ Acts 1828-29, ch. 94, sec. 1. Rev. Laws 1831, ch. 102, sec. 7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

³⁷ Rev. Laws 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925; Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10662. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

³⁸ 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

³⁹ Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

⁴⁰ Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

⁴¹ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

⁴² Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

⁴³ Acts 1865, ch. 40, sec. 4. Acts 1865 (Spec. Sess.), ch. 7, sec. 4. Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

⁴⁴ Acts 1820-21, ch. 20, sec. 1. Rev. Laws 1824, ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909; Burns 25-3602; Baldwin 9280-2.

⁴⁵ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

bonds of surviving partners;⁴⁶ leases of rolling stock and equipment of railroads;⁴⁷ statutory statements of express companies;⁴⁸ certificates revoking the admission of foreign corporations to do business in this state;⁴⁹ and the official bonds of the clerk of the circuit court.⁵⁰

A law provides that, when so directed by the board of commissioners, the recorder must "subscribe for one of each of the newspapers of a political or miscellaneous character published in his county, file the same in his office, and cause said newspapers to be substantially bound, from time to time, in volumes of a convenient size, to be kept in his office for the use of the inhabitants of this state, who shall, at all times during office hours, have access to the same, free of all charge and expense."⁵¹

Laws formerly required the recorder to record the following documents: Indentures of apprentices;⁵² inheritance tax receipts;⁵³ dentists' certificates of registration;⁵⁴ and special assessments against lands benefited by ditches and drains.⁵⁵

The recorder keeps a miscellaneous record in which he records documents for which he keeps no specific book, including many papers, writings, and documents which no law specifically requires him to record.⁵⁶

⁴⁶ Acts 1877; Burns 50-304; Baldwin 13216.

⁴⁷ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁴⁸ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁴⁹ Acts 1929; Burns 25-311; Baldwin 4969.

⁵⁰ Rev. Laws 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89.

1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁵¹ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

⁵² Rev. Laws 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

⁵³ Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

⁵⁴ Acts 1887, ch. 32, sec. 9. Acts 1899, ch. 211, sec. 29.

⁵⁵ Acts 1881 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, secs. 6, 21. Acts 1933, ch. 264, sec. 81.

⁵⁶ Rev. Laws 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. Interview of May 18, 1939 with E. P. Brennan, state examiner.

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,⁵⁷ and the intangible tax thereon (if any) must be paid.⁵⁸ No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.⁵⁹

The recorder keeps an entry book in which he enters, as filed, all instruments delivered to him for recording, noting the day and hour received, which is deemed the time of recording. Official receipts for such instruments are issued.⁶⁰ The recorder charges the fees required by law. He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office. Quarterly he reports to the auditor the amount of fees collected by him, and pays such fees (except those he is entitled to retain) over to the treasurer.⁶¹

The recorder is required to index the deeds, mortgages, and other instruments recorded by him.⁶² Information concerning

⁵⁷ Acts 1907, ch. 18, secs. 8, 9, 11-13. Acts 1810, ch. 42, sec. 2. Rev. Laws 1831, ch. 41, secs. 7, 11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 28-45, 48-51. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1939 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

⁵⁸ Acts 1933; Burns 64-929; Baldwin 15927.

⁵⁹ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

⁶⁰ Acts 1807, ch. 18, sec. 10. Acts 1817-18 (general), ch. 28, sec. 10. Rev. Laws 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. *Hand v. Board of County Comrs.* (1866), 26 Ind. 179; *Holman v. Doran* (1877), 56 Ind. 358; *Gilchrist v. Gough* (1878), 63 Ind. 576; *Moore v. Glover* (1888), 115 Ind. 367, 16 N. E. 163.

⁶¹ Acts 1871, ch. 15, secs. 4, 21, 22, 51. Acts 1883, ch. 78, sec. 3. Acts 1891, ch. 194, secs. 124, 125; Acts 1895; Burns 49-1308, 49-1310; Baldwin 7566, 7567. Acts 1895, 1903, 1913; Burns 49-1401, 49-1402, 49-1408, 49-1410; Baldwin 7576, 7577, 7583, 7585. See footnote 12.

Fee charged when single instrument releases or assigns more than one chattel mortgage. *Opinions of the Attorney General of Indiana, 1939*, p. 54.

⁶² Acts 1825, ch. 44, sec. 1. Rev. Laws 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. *Garrett v. Board of County Comrs.* (1883), 92 Ind. 518.

the documents recorded in his office is reported annually to the state division of accounting and statistics.⁶³

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording instruments (executed on similar printed forms) for any person who presented 500 or more of such instruments to the recorder for recording during the last preceding year.⁶⁴

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners. Such method has never been used generally by the recorder of Jay County.⁶⁵

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.⁶⁶

Forms for the following books were prescribed for recorders by the state board of accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.⁶⁷

Deeds. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. Turpen v. Board of County Comrs. (1855), 7 Ind. 172; *State ex rel. Board of County Comrs. v. Atkinson* (1861), 17 Ind. 26.

Mortgages. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. Gilchrist v. Gough (1878), 63 Ind. 576; Reeder v. *State ex rel. Harlan* (1884), 98 Ind. 114.

Index to chattel mortgage minute book. Acts 1935; Burns, 1939 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1939 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

⁶³ Acts 1909; Burns 60-202; Baldwin 13855. *Statistical Report for the State of Indiana for the Period ended June 30, 1939* (Indianapolis, 1940), 56-58.

⁶⁴ Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

⁶⁵ Acts 1927; Burns 49-3207; Baldwin 14667.

⁶⁶ 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1. p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

⁶⁷ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

ENTRY OF INSTRUMENTS FOR RECORDING

59. ENTRY BOOK, 1864-. 18 vols. (C-P, 5-8).

Record of instruments filed for recording, showing number and kind of instrument, date and time of filing, names of principals, location and description of property, and amount of consideration. Also contains: Recorder's Fee and Cash Book, 1864-94, entry 91. Arr. chron. by dates of filing. No index. Hdw. 300 pp. 22 x 14 x 3. Recr. off.

LAND TRANSFERS

DEEDS AND TITLES

60. DEED RECORD, 1836-. 93 vols. (A-U, 1-30, 32-55, 57-74).

Transcripts of deeds and wills conveying titles to real property, including:

- i. Deeds, showing dates of deed and recording, names of grantor and grantee, amount of consideration, and description and location of real estate.
- ii. Wills, showing dates of will and recording; names of testator, beneficiaries, executor, and witnesses; date entered for taxation; and nature of bequests.

Also contains: Trustee's Deed Record, 1836-79, 1888-, entry 65; Sheriff's Deeds, 1836-Mar. 1871, Sept. 1880-, entry 66; Tax Title Deed, 1836-66, entry 67; Plat [Record], 1836-50, entry 74; Mortgage Record, Real Estate, 1836-Aug. 14, 1844, entry 75; Miscellaneous Record, 1836-Aug. 20, 1865, entry 87. Arr. chron. by dates of recording. Indexed alph. by names of grantees and grantors; for separate indexes, see entries 62-64. 1836-98, hdw.; 1899-, typed. 650 pp. 19 x 15 x 4. Recr. off.

61. DEED RECORD TRANSCRIPT, 4 vols. (B, C, G, I). June 15, 1840-Oct. 24, 1845, Dec. 26, 1851-Oct. 7, 1855.

Transcripts of deed records showing same information as in entry 60. Arr. chron. by dates of recording. Indexed alph. by names of grantees and grantors. Hdw. 650 pp. 19 x 15 x 4. Recr. off.

62. GENERAL INDEX TO DEEDS, GRANTOR, 1836-. 16 vols. (1-16).

Index to Deed Record, entry 60, showing same information as in entry 63. Arr. alph. by names of grantors. Hdw. 300 pp. 22 x 14 x 3. Recr. off.

63. GENERAL INDEX TO DEEDS, GRANTEE, 1836-. 16 vols. (1-16).

Index to Deed Record, entry 60, showing names of grantee and grantor, kind of deed, dates of deed and recording, amount of consideration, location and description of property, and volume and page reference to recording. Arr. alph. by names of grantees. Hdw. 300 pp. 22 x 14 x 3. Recr. off.

64. GENERAL INDEX TO DEEDS GRANTEE TRANSCRIPT, 1853-62. 1 vol. (2).

Transcript of General Index to Deeds, Grantee, entry 63, showing same information as in entry 63. Arr. alph. by names of grantees. Hdw. 300 pp. 22 x 14 x 3. Recr. off.

65. TRUSTEE'S DEED RECORD, 1836-37. 1 vol. (Z). 1836-79, 1888- in Deed Record, entry 60.

Record of certificates of election and appointments of trustees and officers in charge of real estate owned by churches and lodges, showing name and address of church or lodge, names of officers and trustees, date of election or appointment, term of office, and date of filing. Arr. chron. by dates of filing. Indexed alph. by names of churches and lodges. Hdw. 430 pp. 22 x 14 x 3. Recr. off.

66. SHERIFF'S DEEDS, Apr. 1871-Aug. 1880. 1 vol. (W).

1836-Mar. 1871, Sept. 1880- in Deed Record, entry 60.

Transcripts of deeds for conveyance of titles to real property sold to satisfy judgments, showing dates of sale, deed, and recording; names of grantor and grantee; amounts of judgment, interest, and costs; and amount of sale. Arr. chron. by dates of recording. Indexed alph. by names of grantees. Hdw. 300 pp. 20 x 14 x 4. Recr. off.

For other sheriff's deed records, see entry 166.

67. TAX TITLE DEED, 1867-. 4 vols. (V, 31, 56, 75). 1836-66 in Deed Record, entry 60.

Transcripts of tax title deeds issued by auditor to purchasers of property sold for nonpayment of taxes, showing dates of sale, certificate of purchase, and deed; date and time of recording; names of owner and purchaser; amount of sale; and location and description of property. Arr. chron. by dates of deeds. Indexed alph. by names of owners and purchasers. 1867-99, hdw.; 1900-, typed. 650 pp. 19 x 15 x 4. Recr. off.

68. QUIET TITLE RECORD, 1911-. 2 vols. (1, 2).

Transcripts of court orders and decrees in actions to quiet title to real estate, showing cause number, dates of order or decree and recording, names of plaintiff and defendant, location and description of property, and nature of decree. Arr. chron. by dates of recording. Indexed alph. by names of

plaintiffs; for separate index, see entry 69. Typed. 600 pp. 22 x 14 x 4. Recr. off.

69. GENERAL INDEX OF QUIET TITLE TRANSCRIPTS, 1911-. 1 vol. (1).

Index to Quiet Title Record, entry 68, showing dates of order or decree and filing, names of plaintiff and defendant, and location and description of property. Arr. alph. by names of plaintiffs. Hdw. 600 pp. 22 x 14 x 3. Recr. off.

70. TRACT BOOK, 1832-49. 1 vol.

Abstracts of land patent grants for property purchased from U. S. Government, showing dates of patent and recording, names of purchaser and township, location and description of real estate, number of acres, price per acre, and volume and page reference to Deed Record, entry 60. Arr. by twps., thereunder num. by range and section nos. No index. Hdw. 200 pp. 18 x 14 x 1½. Recr. off.

71. TRACT BOOK, 1832-49. 1 vol.

Transcript of Tract Book, entry 70, showing same information as in entry 70. Arr. num. by twp. and range nos. No index. Hdw. 100 pp. 15 x 10 x 1. Aud. vt.

72. AUDITORS OFFICE [Deed and Plats], 1836-40. 1 vol.

Record of deeds and plats of towns and cities disannexed from Jay County, showing names, locations, and descriptions of towns and cities. No obvious arr. No index. Hdw. Condition poor. 75 pp. 18 x 14 x 2. Recr. off.

73. SWAMP LAND ENTRIES, 1879. 1 vol.

Record of persons to whom swampland patents have been issued from 1853-67, showing date and number of patent, name of patentee, location and description of land, and certification of state auditor. Arr. chron. by dates of patents. No index. Hdw. 10 pp. 22 x 14 x ¼. Recr. off.

PLATS (see also entries 259, 260)

74. PLAT [RECORD], 1851-. 2 vols. (A, B). 1837-50 in Deed Record, entry 60.

Plats of cities, towns, villages, additions and subdivisions in Jay County, showing date and name of plat, and location and description of property. Arr. by names of plats. No index. Hdw. Condition fair. 300 pp. 24 x 24 x 3. Recr. off.

MORTGAGE TRANSACTIONS

REAL ESTATE

75. MORTGAGE RECORD, REAL ESTATE, 1844-. 78 vols. (A-Z, 1-52). 1836-43 in Deed Record, entry 60.

Record of mortgages executed to secure loans on real property,

showing dates of mortgage, maturity, satisfaction, and recording; amount and conditions of mortgage; names of mortgagor and mortgagee; and location and description of property. Also contains: School Fund Mortgage Record, 1844-June 14, 1854, entry 79; Chattel Mortgage Record, 1844-87, entry 82. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees; for separate indexes, see entries 76-78. 1844-98, hdw.; 1899-, typed. 600 pp. 22 x 14 x 4. Recr. off.

76. GENERAL INDEX OF MORTGAGES, MORTGAGOR, 1865-. 14 vols. (2-15). 1837-64 in General Index of Mortgages, Mortgagee and Mortgagor, entry 78.

Index to Mortgage Record, Real Estate, entry 75, showing same information as in entry 78. Arr. alph. by names of mortgagors. Hdw. 400 pp. 22 x 14 x 5. Recr. off.

77. GENERAL INDEX OF MORTGAGES, MORTGAGEE, 1865-. 14 vols. (2-15). 1837-64 in General Index of Mortgages, Mortgagee and Mortgagor, entry 78.

Index to Mortgage Record, Real Estate, entry 75, showing same information as in entry 78. Arr. alph. by names of mortgagees. Hdw. 400 pp. 22 x 14 x 4. Recr. off.

78. GENERAL INDEX OF MORTGAGES, MORTGAGEE & MORTGAGOR, 1837-64. 1 vol. (1).

Index to mortgages recorded in Deed Record, 1837-43, entry 60, and Mortgage Record 1844-64, entry 75, showing names of mortgagor and mortgagee, date and kind of mortgage, and description of lands and lots. This is a combination of two records later kept separately: General Index of Mortgages, Mortgagor, entry 76; General Index of Mortgages, Mortgagee, entry 77. Arr. alph. by names of mortgagors and mortgagees. Hdw. 300 pp. 22 x 14 x 4. Recr. off.

79. SCHOOL FUND MORTGAGE RECORD, 1854-. 6 vols. (1-6).

1844-53 in Mortgage Record, Real Estate, entry 75. Record of mortgages executed to secure school fund loans, showing dates of mortgage, maturity, and recording; name of mortgagor; location and description of property; and amounts of mortgage, interest, and payments. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. 1854-June 8, 1899, hdw.; June 9, 1899-, typed. 600 pp. 18 x 14 x 4. Recr. off.

CHATTEL

80. GENERAL INDEX TO CHATTEL MORTGAGE, 1888-. 8 vols. (1-8).

General Index to Chattel Mortgage Minute Book, entry 81,

and Chattel Mortgage, entry 82, showing names of mortgagor and mortgagee, dates of recording and satisfaction, and volume and page reference to recording. Arr. alph. by names of mortgagors and mortgagees. Hdw. 400 pp. 18 x 14 x 3. Recr. off.

81. CHATTEL MORTGAGE MINUTE BOOK, June 1935-. 2 vols. (1, 2).

Abstracts of chattel mortgages and conditional sales contracts, including:

- i. Chattel mortgages, showing dates of mortgage, filing, maturity, and satisfaction; names of mortgagor and mortgagee; amount of mortgage; and description of property.

- ii. Conditional sales contracts, showing dates of contract and filing, names of vendor and vendee, amount of contract, and description of property.

Arr. chron. by dates of filing. For index, see entry 80. Hdw. 300 pp. 22 x 14 x 5. Recr. off.

82. CHATTEL MORTGAGE, 1888-May 1935. 29 vols. (1-29).

1844-87 in Mortgage Record, Real Estate, entry 75.

Transcripts of mortgages executed to secure loans on personal property, showing dates of mortgage, maturity, satisfaction, and recording; number, amount, and conditions of mortgage; rate of interest; names of mortgagor and mortgagee; and description of property. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees; for separate index, see entry 80. 1888-Nov. 17, 1899, hdw.; Nov. 18, 1899-May 1935, typed. 400 pp. 22 x 14 x 4. Recr. off.

LIENS

83. MISCELLANEOUS RECORDS, MECHANICS LIENS, 1896-. 4 vols. (15, 23, 27, 31). 1865-95 in Miscellaneous Records, entry 37.

Transcripts of notices of mechanics' liens executed to secure payments for labor and materials, showing dates of filing and release, names of lienor and lienee, and amount of lien. Arr. chron. by dates of filing. Indexed alph. by names of lienors and lienees. Hdw. 300 pp. 18 x 12 x 4. Recr. off.

84. STALLION LIEN, 1890-. 1 vol.

Record of liens executed to secure payment of stallion service fees, showing dates of lien and service; date and time of recording; names and addresses of lienor and lienee; name, registry number, and description of sire; description of dam;

and amount of lien. Arr. chron. by dates of recording. Indexed alph. by names of lienors. Hdw. 600 pp. 22 x 14 x 3. Recr. off.

85. DITCH ASSESSMENT, 1921-. 1 vol.

Record of liens against property benefited by construction of drainage ditches, showing dates of petition, assessment, and recording; names of ditch and property owner; amount of assessment; and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of ditches. Typed. 600 pp. 22 x 18 x 5. Recr. off.

86. ABSTRACT OF OLD AGE CERTIFICATES FILED, 1936-. 1 vol. (1).

Abstracts of certificates of award of old-age assistance establishing liens against property of recipients, showing dates of certificate and filing, name of recipient, and application and certificate numbers. Arr. alph. by names of recipients. No index. Hdw. 560 pp. 18 x 12 x 4. Recr. off.

For other old-age assistance records, see entries 297-303, 314-318.

MISCELLANEOUS INSTRUMENTS

87. MISCELLANEOUS RECORDS, Aug. 20, 1865-. 29 vols. (1-14, 16-22, 24-26, 28-30, 32, 33). 1836-Aug. 19, 1865 in Deed Record, entry 60.

Transcripts of miscellaneous instruments, including:

- i. Affidavits, showing dates of affidavit, recording, and filing; and name and statement of affiant.
- ii. Powers of Attorney, showing dates of instrument and recording; names of principal, agent, and notary public; and term and conditions of authorization.
- iii. Articles of associations and corporations, showing dates of articles and recording, name of corporation or association, place of business, amount of capital stock, description of seal, and names of officers.
- iv. Bills of sale, showing dates of instrument and recording, description and itemized list of property, names of vendor and purchaser, and amount of sale.
- v. Leases, showing dates of lease and recording, names of lessee and lessor, and amount and conditions of lease.

- vi. Contracts, showing dates of contract and recording, names of principals, location and description of property, and amount and conditions of contract.
- vii. Occasional recordings of options, easements, right-of-way grants, certificates of patents, landlord, threshermen, and breeder liens, judgment and bankruptcy releases, acknowledgments, internal tax receipts, sale agreements, and notices of change of name, showing dates of instrument and recording, nature and conditions of instrument, and names of parties.

Also contains: Miscellaneous Records, Mechanics Liens, 1865-95, entry 83; Soldiers Discharge Record, 1865-1925, entry 90. Arr. chron. by dates of recording. Indexed alph. by names of principals. 1865-Apr. 19, 1899, hdw.; Apr. 20, 1899-, typed. 600 pp. 22 x 14 x 4. Recr. off.

88. REGISTER OF FARM NAMES, 1913-. 1 vol.

Record of farm names for purpose of identifying farm and farm products, showing date and time of recording, location and description of farm, and names of farm and owner. Arr. chron. by dates of recording. Indexed alph. by names of owners. Typed. 550 pp. 22 x 14 x 3. Recr. off.

89. RECORDER'S STATISTICAL RECORD, 1904-. 3 vols.

Summary of instruments recorded, showing date of filing, kind of instrument, and amounts of fees. Arr. chron. by dates of filing. No index. Hdw. 250 pp. 16 x 14 x 2. Recr. off.

MILITARY RECORDS

(See also entry 51)

90. SOLDIERS DISCHARGE RECORD, 1926-. 1 vol. (1). 1865-1925 in Miscellaneous Records, entry 87.

Transcripts of soldiers', sailors' and marines' official discharges from service, showing dates of enlistment, discharge, and recording; name, age, description, and service record of soldier; places of enlistment and discharge; and nature of discharge. Arr. chron. by dates of recording. Indexed alph. by names of soldiers. Typed. 600 pp. 18 x 12 x 4. Recr. off.

FEE AND CASH RECORDS

91. RECORDERS FEE AND CASH BOOK, 1895-. 13 vols. (1-5, 1-8). Title varies: Recorders Cash Book, 1895-1909, 5 vols. 1864-94 in Entry Book, entry 59.

Record of fees collected for recording of instruments, showing

date, number, and nature of instrument; name of payer; date and amount of collection; and date of payment to treasurer. Arr. chron. by dates of collections. No index. Hdw. 300 pp. 22 x 14 x 3. Recr. off.

NEWSPAPERS

92. [NEWSPAPERS], 1860-65, 1869-. 130 vols.

Copies of newspapers procured by recorder containing county publications. Contains:

° *Portland Daily Sun*, 1881-.

Portland Commercial, 1871-1932.

Jay County Republican, 1887-1901.

Jay County Bazoo, 1886-87.

Jay Torch Light, 1860-65.

Jay & Adams Republican, 1869-71.

Jay County Granger, 1878-79.

Arr. chron. by dates of publications. No index. Ptd. 27 x 18 x 1. Recr. off.

V. CIRCUIT COURT

LEGAL STATUS

The circuit court was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Jay County since 1836. Since 1851 the court has consisted of one judge elected for a 6-year term by the voters of the judicial circuit.¹ Since March 1, 1897 Jay County alone has constituted the 58th judicial circuit.² The official name of the court is "Jay Circuit Court."³

The judge of the circuit court is commissioned by the Governor of Indiana⁴ and holds office until his successor is elected and qualified.⁵ For 3 years next before his candidacy for election the judge must have been duly admitted to practice

¹ Const. 1851, art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. See footnotes 21-23 herein.

² Before March 1, 1897 Jay County belonged to judicial circuits composed of more than one county. See footnote 33 herein.

³ Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁵ Const. 1851, art. 15, sec. 3.

law in Indiana and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁶ During the term for which he was elected the judge cannot hold any office of trust or profit under the state, other than a judicial office;⁷ and while holding the office of judge of the circuit court the judge must reside within the circuit,⁸ must not hold any other lucrative office,⁹ and must not practice law.¹⁰ He must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.¹¹

A statute provides that the judge of the circuit court shall receive a regular salary of \$4,200 per year payable monthly out of the state treasury.¹² The constitution provides that an increase or decrease in the compensation of the judge cannot take effect until the expiration of the incumbent's term of office.¹³

If the judge is convicted of corruption or other high crime, he may, on an information in the name of the state, be removed from office by the supreme court.¹⁴ This is the only method by which the judge may be removed from office.¹⁵

Any vacancy in the office of judge of the circuit court is filled through appointment by the governor. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁶

⁶ Acts 1939; Burns, 1939 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

⁷ Const. 1851, art. 7, sec. 16.

⁸ *Ibid.*, sec. 9.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Acts 1881 (Spec. Sess.), ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

¹¹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹² Acts 1921; Burns 4-3209; Baldwin 1225.

¹³ Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926).

¹⁴ *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

¹⁵ *State v. Dearth* (1929), 201 Ind. 1, 161 N. E. 489; *State ex rel. Youngblood v. Warrick* Circuit Court (1935), 208 Ind. 594, 196 N. E. 254. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁶ Const. 1851, art. 5, sec. 18. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁷ If for 9 months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies the facts to the secretary of state, the governor may appoint some practicing attorney within the circuit to serve as judge *pro tempore* during the continuance of the disability of the regular judge.¹⁸

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and the parties do not object to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If the parties object to the regular judge making such nominations, the clerk certifies the facts to the clerk of the Supreme Court of Indiana, who, acting under the direction of the supreme court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.¹⁹

The judge of the fourth judicial district of the Supreme Court of Indiana (Curtis W. Roll) may preside at the trial of any case pending in Jay Circuit Court when the judge of the latter court is "incompetent to preside."²⁰

¹ Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier (1926), 197 Ind. 507, 151 N. E. 407; State *ex rel.* Middleton v. Scott Circuit Court (1938), 214 Ind. 643, 17 N. E. (2d) 464.

¹⁷ 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁸ Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

¹⁹ 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 3, 4. Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1937; Burns, 1939 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5.

²⁰ Acts 1872 (Spec. Sess.); Burns 4-105; Baldwin 1311. 2 Rev. Stat. 1852; Burns 4-113; Baldwin 1321. *Roster of State and Local Officials of the State of Indiana, 1940*, p. 8. Interview of April 26, 1940 with Paul Stump, clerk of the supreme court.

With the organization of Jay County in 1836,²¹ there was established in the county, as required by the mandatory provisions of the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The president judge was elected for the circuit by joint ballot of both houses of the general assembly. The associate judges were elected in the county by the voters thereof.²² All judges were commissioned by the governor and held office for the term of 7 years.²³ Recess appointments of president judges were made by the governor when the general assembly was not in session.²⁴ The president judge alone or any two judges could hold a court; but the presence of the president was required in capital-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.²⁵ Since the adoption of the Constitution of 1851, the circuit court has consisted of one judge elected by the voters of the judicial circuit for a 6-year term.²⁶

The circuit court created by the Constitution of 1816 had original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace had exclusive original jurisdiction), all civil actions at law, all equity cases (including suits for divorce), and insanity inquests and commitments.²⁷ The

²¹ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

²² Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2; ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (general), ch. 2, sec. 2. Rev. Laws 1824, ch. 24, sec. 2. Rev. Laws 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 33, secs. 1-4.

²³ Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

²⁴ *Ibid.*, art. 4, sec. 9.

²⁵ *Ibid.*, art. 5, sec. 3. Fuller v. State (1820), 1 Blackford 63; Cook v. State (1844), 7 Blackford 165; Miller v. Burger (1850), 2 Ind. 337.

Adjournment for lack of quorum. Acts 1816-17, ch. 2, sec. 10.

²⁶ Const. 1851, art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395.

²⁷ U. S. Statutes at Large, 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-8; ch. 3, secs. 2, 3; ch. 4, sec. 19. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Acts 1821-22, ch. 73, sec. 4. Rev. Laws 1824, ch. 24, secs. 4-6. Acts 1825, ch. 35, secs. 1-3. Rev. Laws 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 72-72; ch. 38, secs. 6-32. Prentiss v. Porter (1822), 1 Blackford 525; Mills v. Bradley (1827), 1 Blackford 541; State v. Albertson (1829), 2 Blackford 251; Bequette v. Lassele (1840), 5 Blackford 443; Sherry v. Winton (1848), 1 Ind. 96.

circuit court had appellate jurisdiction to review decisions of the board of commissioners,²⁸ justices of the peace,²⁹ the probate court,³⁰ and the court of common pleas.³¹ Decisions of the circuit court were reviewable by the Supreme Court of Indiana.³²

From the organization of the Jay Circuit Court until the present time, Jay County has belonged to the following judicial circuits: 1836 until February 17, 1838, eighth circuit (Adams, Allen, Cass, DeKalb, Elkhart, Fulton, Huntington, Jay, Kosciusko, Lagrange, La Porte, Marshall, Miami, Noble, Porter, St. Joseph, Steuben, Wabash, Wells, and Whitley); February 17, 1838 until January 28, 1839, sixth circuit (Blackford, Delaware, Fayette, Grant, Henry, Jay, Randolph, Rush, Union, and Wayne); January 28, 1839 until November 6, 1852, 11th circuit (Adams, Blackford, Delaware, Grant, Hamilton, Howard, Jay, Madison, Randolph, Tipton, and Wells); November 6, 1852 until February 9, 1855, seventh circuit (Blackford, Delaware, Grant, Henry, Jay, Randolph, and Wayne); February 9, 1855 until March 6, 1873, 13th circuit (Blackford, Henry, Jay, Randolph, and Wayne); March 6, 1873 until March 1, 1897, 26th circuit (Adams, Jay, and Wells); March 1, 1897 to date, 58th circuit (Jay). Every county which was in the designated circuits at any time during the designated periods is shown above. There were numerous transfers of counties to and from those circuits during those periods. Before March 1, 1897 Jay County belonged to judicial circuits always composed of more than one county.³³

²⁸ Rev. Stat. 1833, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43, ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. *Reddington v. Hamilton* (1846), 8 Blackford 62; *Taylor v. Lucas* (1846), 8 Blackford 289; *Malone v. Hardesty* (1848), 1 Ind. 79.

²⁹ Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1833, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec. 16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79, sec. 21. Rev. Stat. 1843, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 35, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

³⁰ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

³¹ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550.

³² Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. Laws 1824, ch. 25, sec. 7. Rev. Laws 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.

³³ Rev. Laws 1831, ch. 23, sec. 1. Acts 1832-33, ch. 3, secs. 1, 3. Acts 1834-35 (general), ch. 23, sec. 7. Acts 1835-36 (general), ch. 8, sec. 3; ch. 15, sec. 7; ch. 16, sec. 7; ch. 17, sec. 7; ch. 18, sec. 5; ch. 20, sec. 7; ch. 21, sec. 8. Acts 1836-37 (general), ch. 5, sec. 7; ch. 8, secs. 1, 4;

An act of 1901 provides for 4 terms of court each year in Jay County, beginning on the 1st Monday in March, May, September, and December, each term lasting "so long as the business thereof shall require," except that the May term cannot extend beyond the last Saturday in June. The terms are named for the months in which they begin.³⁴ Many laws were enacted by the legislature before 1901 for the purpose of regulating the commencement and duration of terms of court in the Jay Circuit Court.³⁵

A probate court, consisting of one judge, was established in Jay County in 1836. The judge was elected for a 7-year term by the voters of the county. The court had exclusive original jurisdiction over guardianships, probate of wills, and settlement of decedents' estates; and had original jurisdiction (concurrent with the circuit court) over dower proceedings, partition proceedings, and actions concerning guardians, heirs, devisees, executors, and administrators.³⁶ Except as hereinafter stated, the court held 4 terms each year, commencing on the 2d Monday in February, May, August, and November, each term lasting 6 days.³⁷ After June 15, 1852 the judge of the circuit court could act for the judge of the probate court when he failed to hold a regular term of court.³⁸ Decisions of the probate court were reviewable by the Jay

ch. 17. Rev. Stat. 1838, ch. 23 (third act), sec. 4. Acts 1838-39 (general), ch. 2, sec. 1. Acts 1840-41 (general), ch. 25, sec. 1. Acts 1840-41 (general), ch. 28, sec. 3. Acts 1843-44 (general), ch. 3, secs. 12, 13. Acts 1844-45 (general), ch. 44, sec. 1. Acts 1848-49 (general), ch. 40, sec. 1. Acts 1849-50 (general), ch. 43, sec. 1. Acts 1851-52, ch. 21, sec. 7. Acts 1853, ch. 23, sec. 1. Acts 1855, ch. 25, sec. 7. Acts 1867, ch. 19, sec. 1; ch. 22, sec. 1. Acts 1873, ch. 29, sec. 27. Acts 1885, ch. 22, sec. 1. Acts 1897, ch. 60, sec. 2.

³⁴ Acts 1901, ch. 157, sec. 1.

³⁵ Acts 1836-37 (general), ch. 8, sec. 3. Rev. Stat. 1838, ch. 23 (third act), sec. 4. Acts 1838-39 (general), ch. 2, sec. 12. Acts 1839-40 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 16, sec. 1. Acts 1842-43 (general), ch. 6, sec. 1. Acts 1846-47 (general), ch. 81, sec. 1. Acts 1848-49 (general), ch. 40, sec. 1. Acts 1849-50 (general), ch. 43, sec. 1. Acts 1851-52, ch. 22, sec. 1. Acts 1855, ch. 25, secs. 8, 9. Acts 1859, ch. 35, secs. 1, 2. Acts 1861, ch. 20, secs. 1, 2. Acts 1867, ch. 22, secs. 1, 2. Acts 1873, ch. 29, sec. 65. Acts 1885, ch. 22, sec. 4. Acts 1897, ch. 60, secs. 4, 7.

³⁶ Const. 1816, art. 5, sec. 4. Acts 1828-29, ch. 26, secs. 1, 2. Rev. Laws 1831, ch. 25, secs. 1, 4. Rev. Stat. 1838, ch. 24, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 9; ch. 39, secs. 1-13.

³⁷ Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Acts 1842-43 (general), ch. 56, sec. 1. Rev. Stat. 1843, ch. 39, sec. 40.

³⁸ Acts 1851-52, ch. 34, secs. 1, 3.

Circuit Court or the Supreme Court of Indiana.³⁹ The probate court was abolished on May 6, 1853, and its jurisdiction and business were transferred to the court of common pleas.⁴⁰

A court of common pleas, consisting of one judge, was established in Jay County in May 1853. The judge was elected for a 4-year term by the voters of the common pleas district, originally composed of the counties of Jay and Randolph.⁴¹ Regular terms of court in Jay County always began "on the Mondays succeeding the courts in the county of Randolph," except that from March 3, 1855 until August 6, 1859 they began on the 3d Monday of February, May, August, and November, and from August 6, 1859 until October 1, 1860 they began on the 1st Monday of January, May, and September. From May 1853 until March 3, 1855 and from October 1, 1860 until February 24, 1869, each regular term in Jay County could last 1 week; from March 3, 1855 until October 1, 1860 they could last 3 weeks; and after February 24, 1869 they could last "so long as the business thereof may require." From May 1853 until March 3, 1855 regular terms of court in Randolph County began on the 4th Monday in January, April, July, and October, each term lasting 2 weeks if the business of the court so required; from October 1, 1860 until May 11, 1861 they began on the 3d Monday of February and June and 4th Monday of October; and from May 11, 1861 until February 24, 1869 they began on the 3d Monday of February and 4th Monday of June and October; and after February 24, 1869 they began on the 4th Monday of February and October and 1st Monday of July, each term lasting 3 weeks if the business of the court so required. If the circuit court was in session at the time for commencement of a term of the court of common pleas, the term began on the 1st Monday following the completion of the term of the circuit court. An act of March 3, 1855 authorized special terms in any county for the completion of any business scheduled for regular terms and remaining unfinished at adjournment of the term.⁴² An act of March 1,

³⁹ Acts 1828-29, ch. 26, sec. 4. Rev. Laws 1831, ch. 24, sec. 7; ch. 25, sec. 52. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

⁴⁰ 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Jones v. Cavins (1853), 4 Ind. 305.

⁴¹ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3, p. 16. Jones v. Cavins (1853), 4 Ind. 305.

⁴² 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 29-31, p. 21. Acts 1853, ch. 33, secs. 1, 2. Acts 1855, ch. 27, secs. 42, 93, 94. Acts 1859, ch. 47, secs. 18, 23; ch. 51, sec. 3. Acts 1861 (Spec. Sess.), ch. 22, sec. 2. Acts 1869, ch. 20, sec. 1. Jones v. Cavins (1853), 4 Ind. 305.

1859 provided that the judicial district should be composed of the counties of Blackford, Delaware, Jay, and Randolph.⁴³ The court of common pleas had exclusive original jurisdiction over insanity inquests and commitments, guardianships, probate of wills, and settlement of estates of decedents, minors, and insane persons; and had original jurisdiction (concurrent with the circuit court) over naturalization proceedings, equity cases, criminal cases (except offenses punishable by death and offenses punishable only by fine not exceeding \$3, and except all felonies where the defendant did not voluntarily submit himself to the jurisdiction of the court), and civil actions at law (except slander, libel, breach of marriage contract, titles to real estate, actions on bonds of state and county officers, and actions to recover less than \$50 or more than \$1,000—judgment could be rendered for more than \$1,000 when based on consent). Any case in which the judge was disqualified could be transferred to the circuit court.⁴⁴ Decisions of the court of common pleas were reviewable by the Jay Circuit Court or the Supreme Court of Indiana.⁴⁵ The court of common pleas was abolished on March 6, 1873, and its jurisdiction and business were transferred to the circuit court.⁴⁶

The constitution provides for tribunals of conciliation with such powers and duties as may be prescribed by law, but without power to render an enforceable judgment in the absence of agreement of the parties to abide the judgment of such tribunal.⁴⁷ Accordingly, the general assembly, by an act of 1852 which became effective on May 6, 1853, established in the county a court of conciliation, to be held by the judge of the court of common pleas. It had jurisdiction of claims and controversies submitted to it for the purpose of effecting a compromise or for determination. In cases of libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could have the

⁴³ Acts 1859, ch. 51, sec. 1.

This district, composed of said counties, was officially designated "the eighteenth district." Acts 1861, ch. 28, sec. 1.

⁴⁴ *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 7, 9, 11, 12, 14, 17, 21, 23.

⁴⁵ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 13, 20; pt. 2, ch. 1, sec. 550; ch. 10, secs. 189-193; ch. 11, secs. 43-46.

⁴⁶ Acts 1873, ch. 29, secs. 79-88.

⁴⁷ Const. 1851, art. 7, sec. 19.

opposite party served with a notice requiring him to appear before the court. Hearings were private and informal. Controversies submitted by both parties to the court for determination were determined according to right and conscience without regard to technical rules. The judge was required to keep a book containing a memorandum of proceedings and the judgment. The law did not authorize an appeal to another court.⁴⁸ This court was abolished in 1865.⁴⁹

FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the federal laws, all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction), all civil actions at law, all suits in equity, divorce and alimony proceedings, declaratory judgment proceedings, juvenile matters, insanity inquests and commitments, election contests, proceedings for removal of county officers, quo warranto proceedings, proceedings for mandate, prohibition and injunction, proceedings to quiet title to real estate, partition proceedings, ne exeat proceedings, habeas corpus proceedings, proceedings to commit persons to hospitals operated by Indiana University, eminent domain proceedings, proceedings to establish drainage districts and assessments, proceedings for change of names, adoption proceedings, receiverships, bastardy proceedings, guardianships, probate of wills, and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.⁵⁰ The United States Department of Labor

⁴⁸ 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 1-3, 5-8, 12, 13, 18, 20. *Jones v. Cavins* (1853), 4 Ind. 305.

⁴⁹ Acts 1865 (Spec. Sess.), ch. 57.

⁵⁰ General provisions. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Naturalization proceedings. *U. S. Statutes at Large*, 2:153, 155 (law of 1802); 4:69 (law of 1824). *U. S. C.*, title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Divorce and alimony. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1232; Baldwin 935. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

Declaratory judgment proceedings. Acts 1927; Burns 3-1101 to 3-1116; Baldwin 438 to 453.

Election contests. Acts 1933, 1935; Burns, 1939 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7455, 7427-1. *State ex rel. Lord v. Sullivan* (1938), 214 Ind. 279, 15 N. E. (2d) 384.

does not furnish the Jay Circuit Court with the necessary printed forms for naturalization proceedings, hence this court is prevented from exercising its naturalization jurisdiction. Naturalization forms were furnished to this court until 1906

Removal of county officers. Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899, Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 19050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. Bateman v. State (1938), 214 Ind. 138, 14 N. E. (2d) 1007.

Eminent domain. Acts 1905, 1935; Burns, 1939 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905; Burns 3-1707; Baldwin 14068.

Quo warranto. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1053, 1055 to 1060.

Drainage districts and assessments. Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. Penn v. Ducomb (1938), 213 Ind. 133, 12 N. E. (2d) 116.

Change of name. 2 Rev. Stat. 1852, 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

Adoption. Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 681, 684.

Receiverships. Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.*

Bastardy proceedings. 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852, 1877, 1925; Burns, 1939 suppl., 3-605, 3-615; Baldwin, 1935 suppl., 850, 861.

Mandate and prohibition. Acts 1881 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

Injunction. Acts 1881 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1080.

Quieting title. Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410; Baldwin 966, 3303, 3304, 967, 642, 943, 970, 969, 968, 968 note. Acts 1935; Burns, 1939 suppl., 3-1417, 3-1418; Baldwin, 1935 suppl., 558-1, 558-2.

Partition. 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

Ne exeat. Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099 1100, 1101, 1103.

Habeas corpus. Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.*

Juvenile matters. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1939 suppl., 9-2801; Baldwin, 1937 suppl., 1759.

Insane persons. 2 Rev. Stat. 1852, Acts 1895; Burns 6-202 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1081 *et seq.* Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

Wills. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

Hospitals operated by Indiana University. Acts 1939; Burns, 1939 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

"Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal views, and even though it shocks our sense of justice and fairness." State v. Brown (1937), 213 Ind. 118, 124, 11 N. E. (2d) 679.

and will be furnished again whenever the number of aliens in the county is large enough.⁵¹

The circuit court has appellate jurisdiction⁵² to review decisions of justices of the peace,⁵³ mayor's courts, city court,⁵⁴ board of commissioners,⁵⁵ board of review fixing value of property for taxation,⁵⁶ taxing authorities determining that property is taxable,⁵⁷ board of public works or board of park commissioners of any city in the county (or city council performing such functions),⁵⁸ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.⁵⁹

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish contempts; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);⁶⁰ and to adopt rules for conducting its business.⁶¹ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.⁶²

The judge of the circuit court is a conservator of the peace throughout his judicial circuit,⁶³ and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."⁶⁴ He is a member of the commission of public records.⁶⁵ He

⁵¹ Interview of March 5, 1940 with Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District.

⁵² Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁵³ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

⁵⁴ Acts 1905; Burns 4-2415; Baldwin 2396. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

⁵⁵ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1905; Burns 36-1501; Baldwin 8858. Acts 1933; Burns 27-117; Baldwin 5753. State *ex rel.* Sink v. Cass Circuit Court (1938), 214 Ind. 323, 15 N. E. (2d) 624.

⁵⁶ Acts 1927; Burns 64-1020; Baldwin 15686.

⁵⁷ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

⁵⁸ Acts 1933; Burns 48-4501; Baldwin 11576.

⁵⁹ Hamilton v. Fort Wayne (1880), 73 Ind. 1.

⁶⁰ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

Contempt. Universal Credit Co. v. Talcott (1938), 213 Ind. 228, 12 N. E. (2d) 141.

⁶¹ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

⁶² 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

⁶³ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

⁶⁴ 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. State v. Cooper (1883), 90 Ind. 575.

⁶⁵ Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

appoints one member of the county school fund board,⁶⁶ five members of the county board of public welfare,⁶⁷ two members of the county board of review,⁶⁸ and four members of the county board of tax adjustment.⁶⁹ He would appoint three members of the county public library board⁷⁰ and eight members of the county hospital governing board⁷¹ if a county library and county hospital were established in the county. He may appoint two tobacco inspectors for the county,⁷² special prosecuting attorneys (in case of disqualification or failure to attend court),⁷³ special county commissioners (in case of disqualification),⁷⁴ and attorneys to represent poor persons in the circuit court.⁷⁵ Under the provisions of an act of 1939 he may appoint magistrates for a court to be known as "The Magistrates Court of Jay County," but no such magistrates have been appointed.⁷⁶ He approves the official bonds of the prosecuting attorney,⁷⁷ the county director of public welfare,⁷⁸ and collection agencies.⁷⁹ He makes certificates of "qualification and moral character" concerning persons applying to the governor for appointments as notaries public.⁸⁰ He can solemnize marriages,⁸¹ administer oaths,⁸² take

⁶⁶ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁶⁷ Acts 1926 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

⁶⁸ Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁶⁹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷⁰ Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁷¹ Acts 1903, 1939; Burns, 1939 suppl., 22-3263; Baldwin, 1939 suppl., 4509.

⁷² Acts 1857; Burns 67-308; Baldwin 9461.

⁷³ Rev. Laws 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State* (1926), 197 Ind. 401, 141 N. E. 52; *State ex rel. Williams v. Ellis* (1916), 184 Ind. 307, 112 N. E. 98; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

⁷⁴ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

⁷⁵ Acts 1881 (Spec. Sess.); Burns 2-211; Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 199. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

⁷⁶ Acts 1939; Burns, 1939 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2.

⁷⁷ 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁷⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

⁷⁹ Acts 1937; Burns, 1939 suppl., 10-5001; Baldwin, 1937 suppl., 2468-5.

⁸⁰ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

⁸¹ Acts 1897; Burns 44-301; Baldwin 5621.

⁸² 2 Rev. Stat. 1852; Burns 4-312; Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.

acknowledgments and proofs of deeds and other documents,⁸³ waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,⁸⁴ issue licenses for carrying pistols,⁸⁵ and certify as to the authenticity of transcripts of the records and proceedings of the court.⁸⁶

In pursuance of appropriations by the county council,⁸⁷ the judge of the circuit court may make allowances against the county for expense of administration of justice.⁸⁸ Such allowances include compensation of witnesses,⁸⁹ jurors,⁹⁰ master commissioners,⁹¹ sheriff,⁹² bailiffs,⁹³ court reporter,⁹⁴ page,⁹⁵ and attorneys appointed to represent poor persons.⁹⁶

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all process of the court.⁹⁷ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If

⁸³ 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁸⁴ Acts 1939; Burns, 1939 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁸⁵ Acts 1935, 1937; Burns, 1939 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

⁸⁶ Acts 1881 (Spec. Sess.), Burns 2-1605, 2-1617, 2-3106; Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400. Acts 1905; Burns 9-2103; Baldwin 2315.

⁸⁷ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

⁸⁸ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

⁸⁹ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

⁹⁰ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

⁹¹ Acts 1881 (Spec. Sess.); 1903; Burns 4-3407; Baldwin 1286.

⁹² Acts 1895, 1905, 1915, 1915; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

⁹³ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

⁹⁴ Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

⁹⁵ *Opinions of the Attorney General of Indiana, 1939*, p. 312.

⁹⁶ Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

⁹⁷ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sheriff."

no bailiff is appointed, the sheriff or his deputy performs these duties.⁹⁸ In the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office, the coroner performs these duties of the sheriff;⁹⁹ and in the event also of the absence, personal interest, or incapacity of the coroner, or vacancy in his office, the judge appoints an elisor to perform these duties of the sheriff.¹⁰⁰ The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.¹⁰¹ The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹⁰² The county director of public welfare performs the duties of the probation officer when so directed by the court.¹⁰³ The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹⁰⁴ Two jury commissioners (annually appointed by the judge) prepare lists of names from which the grand juries and petit juries are drawn.¹⁰⁵ The court page (appointed by the judge for an

⁹⁸ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

⁹⁹ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

¹⁰⁰ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

¹⁰¹ 1 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State ex rel. Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020. See the essay entitled "Prosecuting Attorney."

¹⁰² Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364.

¹⁰³ Acts 1926 (Spec. Sess.); Burns, 1939 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹⁰⁴ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1283 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. Adams v. State (1938), 214 Ind. 603, 17 N. E. (2d) 84.

¹⁰⁵ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Crickmore v. State (1938), 213 Ind. 586, 12 N. E. (2d) 266; Johnson v. State (1938), 213 Ind. 659, 14 N. E. (2d) 96; Foreman v. State (1938), 214 Ind. 79, 14 N. E. (2d) 546.

indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.¹⁰⁶

The clerk of the circuit court, in person or by deputy, performs numerous duties for the circuit court. All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.¹⁰⁷ He is charged by statute with the duty of keeping and preserving the official records of the court.¹⁰⁸

The clerk of the circuit court also files pleadings and other court papers and endorses thereon the time of such filing;¹⁰⁹ issues summonses,¹¹⁰ notices for service by publication,¹¹¹ attachment writs,¹¹² garnishment writs,¹¹³ replevin writs,¹¹⁴ ejectment writs,¹¹⁵ habeas corpus writs,¹¹⁶ warrants,¹¹⁷ commitments,¹¹⁸ executions,¹¹⁹ witness sub-

¹⁰⁶ *Dunn v. State ex rel. Corydon* (1933), 204 Ind. 390, 184 N. E. 535. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁰⁷ Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁰⁸ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁰⁹ Acts 1816-17, ch. 2, sec. 12; ch. 4, sec. 28; ch. 5, secs. 1, 2, 18. Acts 1817-18 (general), ch. 4, sec. 17. Rev. Laws 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, secs. 18-21, 33, 41; ch. 79, secs. 8, 38. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

¹¹⁰ Acts 1816-17, ch. 2, sec. 8; ch. 4, sec. 5. Acts 1817-18 (general), ch. 60, sec. 3; ch. 61, sec. 3. Rev. Laws 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

Summonses in criminal cases. Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1013; Baldwin 2138.

¹¹¹ Rev. Laws 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1939 suppl., 2-807; Baldwin, 1935 suppl., 88.

¹¹² Rev. Laws 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

¹¹³ Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

¹¹⁴ Acts 1881 (Spec. Sess.); Burns 3-2703, 3-2704; Baldwin 1200, 1201.

¹¹⁵ Acts 1927; Burns 3-1305; Baldwin 945.

¹¹⁶ Acts 1881 (Spec. Sess.); Burns 3-1909; Baldwin 1044.

¹¹⁷ Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1003, 9-2237; Baldwin 2136, 2347.

¹¹⁸ Acts 1905, 1939; Burns, 1939 suppl., 9-725; Baldwin, 1939 suppl., 2094. Acts 1905, 1927; Burns 9-2228; Baldwin 2335.

¹¹⁹ Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 1. Rev. Laws 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524. Acts 1905; Burns 9-2226; Baldwin 2332.

poenas,¹²⁰ letters of guardianship,¹²¹ letters testamentary, and letters of administration;¹²² takes depositions of witnesses;¹²³ approves and files judicial bonds,¹²⁴ including bonds of executors, administrators,¹²⁵ and guardians;¹²⁶ administers and files the official oaths of executors, administrators,¹²⁷ and guardians;¹²⁸ performs the statutory and customary duties of clerk at trials;¹²⁹ keeps dockets, order books, judgment records, final record books,¹³⁰ inheritance tax records,¹³¹ receivership records,¹³² guardianship records,¹³³ records concerning the administration of decedents'

¹²⁰ Acts 1816-17, ch. 4, sec. 12. Rev. Laws 1824, ch. 74, sec. 16. Acts 1831 (Spec. Sess.); Burns 2-1701; Baldwin 289.

¹²¹ 2 Rev. Stat. 1852; Burns 8-101; Baldwin 3413. *State ex rel. Cecil v. Christian* (1895), 13 Ind. App. 308, 41 N. E. 603.

¹²² Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, sec. 4. Acts 1831 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 2025, 3030.

¹²³ Acts 1831 (Spec. Sess.); Burns 2-1501; Baldwin 211.

¹²⁴ Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 18. Acts 1817-18 (general), ch. 13, sec. 19. Rev. Laws 1824, ch. 5, sec. 24; ch. 74, sec. 13; ch. 79, sec. 2. Rev. Laws 1831, ch. 6, secs. 1, 26. Acts 1831 (Spec. Sess.); Burns 2-3209, 2-3402, 3-303, 3-503, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 538, 726, 776, 788, 3048, 3229, 3277. 2 Rev. Stat. 1852; Burns 7-502; Baldwin 3396. 2 Rev. Stat. 1852, Acts 1857, 1831 (Spec. Sess.); Burns 8-104; Baldwin 3421.

Releasing cost bond. *Opinions of the Attorney General of Indiana, 1939*, p. 9.

¹²⁵ Acts 1831 (Spec. Sess.), 1939; Burns, 1939 suppl., 6-501, 6-1128; Baldwin, 1939 suppl., 3048, 3169. Acts 1831 (Spec. Sess.); Burns 6-502, 6-804; Baldwin 3049, 3085.

¹²⁶ 2 Rev. Stat. 1852, Acts 1857, 1831 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹²⁷ Acts 1831 (Spec. Sess.), 1939; Burns, 1939 suppl., 6-501; Baldwin, 1939 suppl., 3048.

¹²⁸ 2 Rev. Stat. 1852, Acts 1857, 1831 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹²⁹ Acts 1816-17, ch. 3, sec. 3. Rev. Laws 1824, ch. 10, sec. 1. Rev. Laws 1831, ch. 15, sec. 1. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹³⁰ Acts 1816-17, ch. 2, sec. 12; ch. 4, secs. 1, 11, 12, 23, 32. Acts 1817-18 (general), ch. 3, sec. 11. Rev. Laws 1824, ch. 73, sec. 15; ch. 74, secs. 15, 33, 55. Rev. Stat. 1843, ch. 38, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358. Acts 1831 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1831 (Spec. Sess.); Burns 2-3226; Baldwin 500.

¹³¹ Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1939 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

¹³² Acts 1911; Burns 3-2607; Baldwin 1147.

¹³³ Acts 1846-47 (general), ch. 54, sec. 1. Acts 1831 (Spec. Sess.), 1832; Burns 6-2205, 6-2206; Baldwin 3014, 3268. Acts 1839; Burns 8-137; Baldwin 3424.

estates,¹³⁴ and records of redemptions from judicial sales;¹³⁵ he files and records orders, judgments,¹³⁶ indictments,¹³⁷ recognizances,¹³⁸ notices of lis pendens,¹³⁹ probated wills,¹⁴⁰ inventories and accounts of trustees,¹⁴¹ sheriff's certificates of sale of real estate,¹⁴² and warrants issued by the state department of treasury for the collection of gross income taxes;¹⁴³ makes arrangements for the admission of feeble-minded persons to the Fort Wayne State School or the Muscatatuck Colony, after the judge has entered an order of commitment thereto;¹⁴⁴ files coroner's inquest papers, including recognizances, written evidence, verdict, and report;¹⁴⁵ receives money deposited in court pending the decision of the court;¹⁴⁶ receives payments on judgments of

¹³⁴ Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1833; Burns 6-2205, 6-2206; Baldwin 3014, 3238.

¹³⁵ Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

¹³⁶ Acts 1816-17, ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 5. Rev. Laws 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹³⁷ 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126. Neal v. State (1938), 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950.

¹³⁸ Acts 1881 (Spec. Sess.); Burns 2-3402; Baldwin 538. Acts 1905, 1927, 1933; Burns 9-723, 9-1029, 9-1042; Baldwin 2092, 2163, 2175. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

¹³⁹ Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97 to 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1. Pfeiffer Hardware Co. v. Auburn State Bank (1937), 104 Ind. App. 472, 8 N. E. (2d) 398.

¹⁴⁰ Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.), 1833; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3385.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

¹⁴¹ Acts 1937; Burns, 1939 suppl., 6 2514; Baldwin, 1937 suppl., 3221-14.

¹⁴² The certificates and assignments thereof are recorded in the lis pendens record. Acts 1881 (Spec. Sess.); Burns 2-3909; Baldwin 622.

¹⁴³ These warrants are recorded in the judgment record. Acts 1933, 1937; Burns, 1939 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). *Opinions of the Attorney General of Indiana, 1938*, p. 303.

¹⁴⁴ Acts 1939; Burns, 1939 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

¹⁴⁵ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2907 to 49-2909; Baldwin 5441 to 5443.

¹⁴⁶ Acts 1881 (Spec. Sess.); Burns 2-4711; Baldwin 1214. Acts 1905; Burns 2-4712, 9-1026; Baldwin 1213, 2160.

record in his office;¹⁴⁷ draws up each day's proceedings at full length in the proper order book (which is signed by the judge); enters in a final record book a complete record of causes finally determined;¹⁴⁸ prepares and certifies transcripts of proceedings for change of venue from the county¹⁴⁹ or for appeal to a higher court;¹⁵⁰ and prepares budget estimates for the circuit court.¹⁵¹

The clerk keeps the jury box containing names selected by the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names in the order book, and issues a venire to require such persons to appear in court.¹⁵²

Under authority of the federal laws the clerk formerly filed naturalization declarations and certificates, kept a record of naturalization proceedings, and made reports thereof to the United States Immigration and Naturalization Service.¹⁵³ Formerly he issued certificates showing discharge of apprentices by the court.¹⁵⁴ From 1836 until 1853 he was

¹⁴⁷ Acts 1875; Burns 49-2719; Baldwin 1438.

¹⁴⁸ Acts 1816-17, ch. 3, sec. 3. Acts 1817-18 (general), ch. 3, secs. 62, 63; ch. 66, sec. 5. Rev. Laws 1824, ch. 10, sec. 1; ch. 74, sec. 54. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁴⁹ Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226.

Fees on change of venue and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 128.

¹⁵⁰ Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

¹⁵¹ Acts 1899; Burns 26-516; Baldwin 5380.

¹⁵² Acts 1817-18 (general), ch. 48, secs. 2, 3. Rev. Laws 1824, ch. 56, secs. 1-3. Rev. Laws 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939; Burns, 1939 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

Failure to empty the jury box at beginning of year held not ground for reversal of manslaughter conviction. *Crickmore v. State* (1938), 213 Ind. 586, 12 N. E. (2d) 266.

Objection to irregularities in the selection, impaneling or swearing of grand jury should be raised by plea in abatement. *Johnson v. State* (1938), 213 Ind. 659, 14 N. E. (2d) 96.

¹⁵³ U. S. C., title 8, secs. 357, 400 (laws of 1906, 1911, 1913). U. S. Executive Order (June 10, 1933) 6166, sec. 14. Acts 1933, 1937; Burns, 1939 suppl., 49-1007; Baldwin, 1937 suppl., 7537.

¹⁵⁴ Acts 1817-18 (general), ch. 51, sec. 2. Rev. Laws 1824, ch. 3, sec. 2. Rev. Laws 1831, ch. 4, sec. 2.

ex officio clerk of the probate court (abolished in 1853),¹⁵⁵ and from 1853 until 1873 he was ex officio clerk of the court of common pleas (abolished in 1873).¹⁵⁶

The state board of accounts has prescribed forms for the following records: Entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; support docket; index and record of receiverships; and judgment docket.¹⁵⁷

CIVIL CAUSES

ENTRY OF CAUSES

93. ENTRY & ISSUE DOCKET AND FEE BOOK, Aug. 20, 1913-. 32 vols. (1-32).

Record of filing of actions, minutes of proceedings, and fees assessed in civil causes, showing cause number; dates of filing, sheriff's return, and court action; names of plaintiff, defendant, attorneys, and witnesses; nature of action; amount of fees; and date of payment. This is a combination of three records formerly kept separately: Entry Docket, entry 94; Issue Docket, entry 106; Fee Book, entry 153. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 22 x 18 x 4. 17 vols., Aug. 20, 1913-Feb. 1, 1927, clk. off; 15 vols., Feb. 2, 1927-, clk. off.

94. ENTRY DOCKET, 1873-Aug. 19, 1913. 9 vols. (2 vols. not labeled, 1-7). Aug. 20, 1913- in Entry & Issue Docket and Fee Book, entry 93.

Record of filing of actions in civil causes, showing dates of filing, process, and sheriff's return; cause number; nature of action; and names of plaintiff, defendant, and attorneys. Arr. chron. by dates of filing. No index. Hdw. 300 pp. 18 x 14 x 3. Clk. off.

ORIGINAL DOCUMENTS

95. GENERAL INDEX OF CIVIL PAPERS, 1837-. 3 vols. (1-3). Index to civil and miscellaneous documents, including:

- i. Index to civil documents in [Case Papers], entry 96i, showing date of filing, cause number, nature of action, names of plaintiff and defendant, and file box reference. Arr. alph. by names of plaintiffs.

¹⁵⁵ Acts 1829-30, ch. 26, sec. 3. Rev. Laws 1831, ch. 25, sec. 7. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43.

¹⁵⁶ 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 25, 26. Acts 1873; Burns 4-328; Baldwin 1417.

¹⁵⁷ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

- ii. Index to [Miscellaneous Court Documents], entry 97, showing nature of document, year date, and file box reference. Arr. chron. by year dates.

Hdw. 300 pp. 18 x 14 x 4. Clk. off.

96. [CASE PAPERS], 1837-. 558 f. b. (numbering varies). Original documents filed in civil and guardianship causes, including:

- i. Civil documents, including complaints, affidavits, petitions, answers, motions, bonds, summons, subpoenas, writs and sheriffs' notices, showing cause number; dates of document and filing; names of plaintiff, defendant, attorneys, and witnesses; nature of action; and disposition. For index, see entry 95.
- ii. Guardianship documents, including applications and letters of appointment, guardians' bonds, inventories and reports, showing cause number; dates of document and filing; amount of guardian's bond; names of ward, guardian, and sureties; and final settlement. For index, see entry 134.

Arr. chron. by dates of filing. Hdw. and typed. 10 x 4 x 16. Clk. off.

97. [MISCELLANEOUS COURT DOCUMENTS], 1875-. 37 f. b. (labeling varies).

Miscellaneous court documents, including:

- i. Foreclosed notes and mortgages, showing dates, numbers, amounts, and conditions of note and mortgage; and names of mortgagor and mortgagee.
- ii. Recognizance bonds, 1927-, showing dates of bond and filing, amount of bond, number and nature of cause, and names of defendant and sureties.
- iii. Administrators' and executors' bonds, 1890-, showing dates of bond, approval, and filing; amount and conditions of bond; and names of administrator or executor and sureties.
- iv. Guardians' bonds, 1881-, showing dates of bond, approval, and filing; amount and conditions of bond; and names of guardian and sureties.
- v. Commissioners', guardians', administrators', and executors' bonds to sell real estate, 1920-, showing dates of bond, approval, and filing; amount and conditions of bond; and names of principal and sureties.

- vi. Appeal bonds, 1903-, showing dates of bond and filing, amount of bond, cause number, and names of defendant and sureties.
- vii. Grand jury reports, 1919-, showing dates of report, investigation, and filing; term of court; results of investigation; number of indictments; and names of jurors.
- viii. Certificates of court allowances, 1885-, showing dates of service, allowance, and filing; and name of payee.

Also contains: [Miscellaneous Clerk's Documents], 1881-, entry 32; [Coroner's Inquests], 1920-, entry 178. Arr. chron. by dates of filing. For index, see entry 95. Hdw. and typed. 10 x 4 x 16. Clk. off.

SANITY

98. INSANE RECORD, 1845-. 7 vols. (A, 2-7).

Record of proceedings in causes of alleged insanity, showing dates of application, inquest, physician's report, action of court, and commitment; cause number; names of patient, examining physician, and institution; personal and family history of patient; report of physician; order of commitment; sheriff's return; and date of discharge. Arr. chron. by dates of inquests. Indexed alph. by names of patients. Hdw. 350 pp. 18 x 12 x 4. Clk. off.

99. RECORD OF EPILEPSY, 1917-. 1 vol. (1).

Record of proceedings in epilepsy causes, showing dates of application, inquest, physicians' report, action, and commitment; cause number; names of patient, examining physician, and institution; personal and family history of patient; report of physician; order of court; warrant for arrest; sheriff's return; and institution superintendent's receipt of admission. Arr. chron. by dates of inquests. Indexed alph. by names of patients. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

NATURALIZATION

100. NATURALIZATION RECORD, 1854-1906. 1 vol.

Record of declarations of intention to become United States citizens, showing date of declaration, name, address, occupation, sex, race, nationality, date and place of birth, marital status, and physical description of alien; name and date and place of birth of alien's wife; names, dates and places of birth, and addresses of children; dates of sailing and arrival; port of entry; name of vessel; and last foreign residence. Arr. chron. by dates of declarations. Indexed alph. by names of aliens. Hdw. 300 pp. 18 x 14 x 2. Clk. off.

101. NATURALIZATION RECORD, SECOND PAPERS, 1859-1903.
1 vol.

Record of naturalization certificates issued, showing date of certificate, name of naturalized citizen, and oath of allegiance. Arr. chron. by dates of certificates. Indexed alph. by names of naturalized citizens. Hdw. 300 pp. 16 x 12 x 2. Clk. off.

MINUTES

102. CIVIL TRANSFER DOCKET, 1934-. 1 vol.

Record of proceedings and actions in pending civil causes, showing dates of filing, action, and sheriff's return; cause number; names of plaintiff, defendant, and attorneys; nature of action; and minutes of court. Arr. num. by cause nos. No index. Hdw. 300 pp. 12 x 16 x 4. Ct. rm.

103. CIVIL COURT DOCKET TRANSFER, 1854-. 122 vols. (1-12, 103 vols. labeled by court terms, 1-7).

Record of proceedings and actions in civil causes, showing court term; dates of filing, action, and sheriff's return; cause number; names of plaintiff, defendant, and attorneys; nature of action; minutes of court; and disposition. 1854-1913, arr. chron. by court terms, thereunder num. by cause nos.; 1914-, arr. num. by cause nos. No index. Hdw. 115 vols., 300 pp. 18 x 12 x 1; 7 vols., 700 pp. 12 x 16 x 4. Deputy clk. off.

104. COURT DOCKET, 1853-73. 4 vols. (1-4).

Record of actions and proceedings in civil, criminal and probate causes of common pleas court, showing dates of filing, sheriff's return, and action; cause number; names of plaintiff, defendant, and attorneys; nature of action; and minutes of court. Arr. chron. by dates of filing. No index. Hdw. 350 pp. 18 x 12 x 2. Deputy clk. off.

105. BENCH DOCKET, 1847-61. 1 vol.

Record of actions and proceedings in civil and criminal causes, showing court term; dates of filing and sheriff's return; cause number; names of plaintiff, defendant, and attorneys; nature of action; and proceedings of court. Arr. chron. by court terms, thereunder num. by cause nos. No index. Hdw. 300 pp. 18 x 14 x 3. Deputy clk. off.

106. ISSUE DOCKET, 1845-Aug. 19, 1913. 36 vols. (A-X, X-Z, 1-9). Aug. 20, 1913- in Entry & Issue Docket and Fee Book, entry 93.

Record of civil causes set for trial, showing dates of filing, sheriff's return, and action; cause number; nature of action;

minutes of court, and names of plaintiff, defendant, and attorneys. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 14 x 3. Clk. off.

107. ISSUE DOCKET, 1853-73. 3 vols. (1, B, C).

Record of civil and criminal causes of common pleas court set for trial, showing dates of filing, action, and sheriff's return; cause number; names of plaintiff, defendant, attorneys, and witnesses; nature of action; and minutes of court. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 14 x 3. Clk. off.

108. RECEIVERSHIP RECORD, 1912-23. 1 vol. (1).

Record of receivership and assignment causes, showing cause number; dates of filing, inventory, and financial statement; names of receivership, receiver, assignors, assignees, and claimants; inventory and appraised valuation of property; and amounts of assets, liabilities, claims, and allowances. Arr. chron. by dates of filing. Indexed alph. by names of receiverships. Hdw. 350 pp. 18 x 12 x 3. Clk. off.

ORDERS

109. ORDER BOOK, 1837-. 84 vols. (A-Z, 1-58).

Record of verdicts returned and judgments and orders of court in civil and criminal causes, showing dates of filing, proceedings, court order, and verdict; cause number; names of plaintiff, defendant, attorneys, and witnesses; nature of verdict or judgment; amount of fees; and court order. Arr. chron. by dates of court orders. Indexed alph. by names of plaintiffs and defendants. 1837-1900, hdw.; 1901-, typed. 350 pp. 18 x 12 x 3. Clk. off.

110. ORDER BOOK, CHANGE OF VENUE, 1886-. 4 vols. (1-4).

Record of actions, proceedings and costs of causes venued to Jay County, showing dates of filing and action; cause number; names of foreign county, plaintiff, and defendant; nature of action; court proceedings; and itemized list of fees and costs. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Typed. 300 pp. 18 x 12 x 3. Clk. off.

For other change of venue records, see entry 242.

111. TRANSCRIPT ORDER BOOK, 1905-. 2 vols. (1, 2).

Certified copies of judgments rendered in courts of foreign counties against residents of Jay County and filed with the clerk of circuit court for execution, showing dates of copy and filing; cause number; names of plaintiff, defendant, and foreign court; proceedings; court order; and amounts of judgment, interest, and costs. Arr. chron. by dates of copies. Indexed alph. by names of plaintiffs. Typed. 580 pp. 18 x 12 x 3. Clk. off.

112. ORDER BOOK, 1853-79. 6 vols. (1-6).

Record of verdicts, judgments, and orders of court in civil and criminal causes of common pleas court, showing dates of filing, proceedings, court orders, and verdicts; cause number; names of plaintiff, defendant, attorneys, and witnesses; nature of verdict or judgment; and court order. Arr. chron. by dates of court orders. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 22 x 14 x 4. Clk. off.

113. PARTITION RECORD, 1853-61. 1 vol. (1).

Record of proceedings to partition real property, showing cause number; dates of proceedings and court order; names of plaintiff, defendant, and commissioner; location and description of property; and court order. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

JUDGMENTS

114. JUDGMENT DOCKET, 1843-. 15 vols. (1-15).

Record of judgments rendered in civil and criminal causes, showing dates of judgment, assignment, and satisfaction; cause number; names of plaintiff and defendant; nature of cause; amounts of judgment and costs; and volume and page references to Order Book, entry 109; Execution Docket, entry 117. Arr. chron. by dates of judgments. Indexed alph. by names of defendants; for separate index, 1870-, see entry 115. Hdw. 300 pp. 22 x 14 x 3. Clk. off.

115. GENERAL INDEX TO JUDGMENT DOCKETS, 1870-. 3 vols. (1-3).

Partial index to Judgment Dockets, entry 114, showing date of judgment, cause number, names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiffs. Hdw. 500 pp. 18 x 12 x 3. Clk. off.

116. JUDGMENT DOCKET, 1853-72. 2 vols. (1, 2).

Record of judgments rendered in civil and criminal causes of common pleas court, showing same information as in entry 114. Arr. chron. by dates of judgments. Indexed alph. by names of defendants. Hdw. 350 pp. 18 x 12 x 3. Clk. off.

EXECUTIONS (see also entries 164-166)

117. EXECUTION DOCKET, 1837-. 19 vols. (A-S).

Record of writs issued for executions on judgments, showing dates of writ, judgment, and sheriff's return; cause number; names of plaintiff and defendant; and amounts of judgment, interest, and costs. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. 1837-1929, hdw.; 1930-, typed. 500 pp. 22 x 14 x 4. Clk. off.

118. EXECUTION DOCKET, 1852-74. 2 vols. (1, 2).

Record of writs issued for execution on judgments in common pleas court, showing same information as in entry 117. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 500 pp. 22 x 14 x 4. Clk. off.

119. LIS PENDENS RECORD, 1881-. 4 vols. (1-4).

Record of sheriff's certificates of sale of real property to satisfy judgments, showing date of sale; names of owner and purchaser; location and description of property; and amounts of judgment, costs, and sale. Arr. chron. by dates of certificates. Indexed alph. by names of purchasers. Hdw. 300 pp. 22 x 18 x 4. Clk. off.

120. REDEMPTION RECORD, 1882-. 2 vols. (1, 2).

Record of certificates of redemption of real property sold to satisfy judgments, showing dates of sale and redemption; names of plaintiff, defendant, and redeemer; location and description of property; and amounts of judgment, costs, and redemption. Arr. chron. by dates of redemptions. Indexed alph. by names of plaintiffs. Hdw. 580 pp. 18 x 12 x 3. Clk. off.

121. PRECIPE RECORD, 1904-. 2 vols. (3, 4).

Record of orders issued by attorneys or plaintiffs to clerk to prepare transcripts of proceedings of causes appealed or change of venue and to issue writs of execution of court decrees, showing date of order, cause number, names of plaintiff and defendant, amount of judgment, and volume and page reference to Order Book, entry 109. Arr. chron. by dates of orders. No index. Hdw. 220 pp. 18 x 12 x 2. Clk. off.

COMPLETE TRANSCRIPTS

122. COMPLETE RECORD, 1837-1928. 21 vols. (A-T, 4).

Complete transcripts of actions and proceedings in causes involving titles to real property, showing dates of action and recording, cause number, names of plaintiff and defendant, location and description of property, proceedings, and disposition of cause. Arr. chron. by dates of actions. Indexed alph. by names of plaintiffs. 1837-1900, hdw.; 1901-28, typed. 580 pp. 22 x 18 x 4. Clk. off.

123. COMPLETE RECORD, COMMON PLEAS, 1853-73. 2 vols. (1, 1).

Complete transcripts of actions and proceedings in civil and criminal causes, showing dates of filing, court action, and recording; names of plaintiff, defendant, and attorneys; nature of action; cause number; and proceedings of court. Arr. chron. by dates of recording. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 22 x 18 x 4. Clk. off.

CRIMINAL CAUSES

(See also entries 97, 104, 105, 107, 109-112, 114-116, 121, 123)

ORIGINAL DOCUMENTS

124. GENERAL INDEX OF CRIMINAL PAPERS, 1847-. 1 vol. (1). Index to [Criminal Papers], entry 125, showing cause number, name of defendant, nature of action, and file box reference. Arr. alph. by names of defendants. Hdw. 300 pp. 22 x 14 x 4. Clk. off.

125. [CRIMINAL PAPERS], 1847-. 35 f. b. (labeling varies). Original documents filed in criminal and juvenile causes, including:

- i. Criminal actions, including affidavits, indictments, bonds, warrants, subpoenas, motions, answers, and commitments, showing cause number; dates of document and filing; names of defendant, attorneys, and witnesses; nature of action; and disposition.
- ii. Juvenile documents, 1909-, including affidavits, complaints, warrants, subpoenas, and examining physician's statements, showing dates of document and filing; nature of action; names of juvenile, defendant, parents or guardian, attorneys, and witnesses; and disposition.

Arr. chron. by dates of filing. For index, see entry 124. Hdw. and typed. 10 x 4 x 16. Clk. off.

AFFIDAVITS AND INDICTMENTS

126. RECORD OF AFFIDAVIT AND INFORMATION, 1904-35. 1 vol. Discontinued.

Record of affidavits filed in criminal causes, showing cause number, date of affidavit, date and nature of alleged offense, and names of defendant and witnesses. Arr. chron. by dates of affidavits. Indexed alph. by names of defendants. Typed. 300 pp. 18 x 12 x 3. Clk. off.

127. INDICTMENT RECORD, 1854-. 6 vols. (1, 2, A-D).

Record of grand jury indictments, showing date of indictment, names of defendant and witnesses, and nature of charge. Arr. chron. by dates of indictments. Indexed alph. by names of defendants. Hdw. 350 pp. 18 x 12 x 3. Clk. off.

BONDS

128. RECOGNIZANCE ORDER BOOK, 1885-1926. 2 vols. (1, 2). 1927- in Miscellaneous Bond Record, entry 33.

Record of bonds posted to assure appearances of defendants

in court, showing date, amount, and conditions of bond; names of defendant and sureties; nature of charge; and date of appearance. Arr. chron. by dates of bonds. Indexed alph. by names of defendants; for separate index, see entry 30. Hdw. 250 pp. 18 x 12 x 3. Clk. off.

MINUTES

129. TRANSFER CIVIL COURT DOCKET [Criminal], 1880-. 15 vols. (1-4, 4, and ten vols. not labeled). Title varies: Criminal Docket, 1880-1937, 14 vols.

Record of actions and proceedings in criminal causes, showing cause number, dates of filing and actions, names of defendant and attorneys, nature of charge, proceedings, and disposition of cause. Arr. num. by cause nos. No index. Hdw. 300 pp. 12 x 16 x 3. Deputy clk. off.

ORDERS

130. CONVICTION RECORD, 1897-1908. 2 vols. (1, 2). 1837-96, 1909- in Order Book, entry 109.

Record of convictions in criminal causes, showing cause number, date of trial, names of defendant and jurors, and nature of offense and conviction. Arr. chron. by dates of trials. Indexed alph. by names of defendants. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

PROBATE CAUSES

(See also entries 95-97, 104)

ENTRY OF CAUSES

131. ESTATE ENTRY, CLAIM AND ALLOWANCE DOCKET, AND FEE BOOK, 1853-. 18 vols. (1, 2, 1-5, 1-11). Title varies: Appearance Docket, 1853-80, 2 vols.; General Claim and Allowance Docket, 1881-1912, 5 vols.

Record of filing of actions and claims and allowances made in estate causes, showing cause number; dates of decedent's death, filing, claim, and allowance; names of estate, administrator or executor, sureties, and claimant; and amounts of administrator's or executor's bond, claim, allowance, and fees. Also contains: [Fee Book, Estates], 1913-, entry 155. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 350 pp. 21 x 20 x 2. Clk. off.

132. GUARDIANSHIP DOCKET AND FEE BOOK, Sept. 3, 1913-. 4 vols. (1-4).

Record of filing of actions and fees assessed in guardianship

causes, showing cause number; date of letters of guardianship; names of guardian, guardianship, appraisers, and sureties; names and ages of wards; amounts of fees, costs, bond, and appraisement; and date of payment. This is a combination of two records formerly kept separately: Guardian's Docket, entry 133; Fee Book [Guardianship], entry 156. Arr. num. by cause nos. Indexed alph. by names of wards. Hdw. 225 pp. 18 x 14 x 2. Clk. off.

133. GUARDIAN'S DOCKET, 1873-Sept. 2, 1913. 3 vols. (2-4). Sept. 3, 1913- in Guardianship Docket and Fee Book, entry 132.

Record of filing of actions in guardianship causes, showing dates of letters of guardianship and filing; cause number; names of guardianship, guardian, wards and sureties; amount of bond; and volume and page reference to Order Book, Probate, entry 147. Arr. chron. by dates of filing. Indexed alph. by names of guardianships, guardians and wards. Hdw. 400 pp. 22 x 18 x 3. Deputy clk. off.

ORIGINAL DOCUMENTS

134. GENERAL INDEX OF PROBATE PAPERS, 1837-. 1 vol. (1). General index to guardianship documents in [Case Papers], entry 96ii, [Estate Papers], entry 135, showing cause number; date of filing; names of estate, guardianship, and ward; and file box reference. Arr. alph. by names of guardianships and wards. Hdw. 300 pp. 22 x 18 x 4. Clk. off.

135. [ESTATE PAPERS], 1837-. 215 f. b. (labeling varies). Original documents filed in estate causes, including applications, letters of administration, administrator's and executor's bonds, wills, inventories, inheritance tax schedules, petitions, claims, claims, proofs of publication, reports, and orders, showing cause number; dates of filing and action; names of decedent, administrator or executor, heirs, sureties, and attorneys; nature of action; and final settlement. Arr. chron. by dates of filing. For index, see entry 134. Hdw. and typed. 10 x 4 x 16. Clk. off.

WILLS

136. RECORD OF WILLS, 1846-. 8 vols. (A-H). Transcripts of wills filed for probate, showing dates of will and recording; names of testator, heirs or beneficiaries, executor, and witnesses; and conditions of will. Arr. chron. by dates of recording. Indexed alph. by names of testators. Hdw. 616 pp. 18 x 12 x 3. Clk. off.

BONDS

137. ADMINISTRATOR'S BONDS, OATH AND LETTERS, 1848-. 9 vols. (one vol. not labeled, 1-3, 3-7).

Record of administrator's bonds, oaths, and letters, showing dates of bond, oath, and letters; names of estate, administrator, and sureties; and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of estates. Hdw. 500 pp. 22 x 18 x 4. Clk. off.

138. EXECUTOR'S BOND AND OATH, 1848-. 4 vol. (one vol. not labeled, 1-3).

Record of executor's bonds, oaths, and letters, showing dates of bond, oath, and letters; names of estate, executor, and sureties; and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of estates. Hdw. 596 pp. 18 x 12 x 3. Clk. off.

139. GUARDIAN'S BOND, OATH AND LETTERS, 1847-. 6 vols. (one vol. not labeled, A, 2-5).

Record of guardians' bonds, oaths, and letters, showing dates of bond, oath, and letters; names of guardianship, ward, guardian, and sureties; and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of guardianships, wards and guardians. Hdw. 650 pp. 22 x 18 x 4. Clk. off.

140. RECORD OF ADMINISTRATOR'S AND GUARDIAN'S BONDS TO SELL REAL ESTATE, 1853-. 4 vols. (1, 1-3).

Record of administrators' and guardians' bonds to sell real estate, showing date, amount, and conditions of bond; and names of administrator and estate or guardian and guardianship and sureties. Arr. alph. by names of estates and guardianships. No index. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

141. COMMISSIONER'S BOND RECORD, 1889-. 1 vol. (1).

Record of commissioners bonds to sell real estate in estate and guardianship causes, showing date, amount, and conditions of bond; and names of estate or guardianship, commissioner, and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of commissioners. Hdw. 600 pp. 18 x 14 x 3. Clk. off.

INVENTORIES

142. INVENTORY RECORD, 1852-. 13 vols. (1-13).

Record of inventories of personal property in estate, guardianship, receivership, and surviving partnership causes, showing date of inventory; cause number; names of estate, administrator or executor, guardianship, guardian, ward,

receivership, receiver, partnership, deceased and surviving partner, debtor, creditor, and appraiser; itemized list and appraised valuation of property; amounts of assets and liabilities; and valuation of property taken by widow and heirs. Arr. chron. by dates of inventories. Indexed alph. by names of estates, guardianships, receiverships and partnerships. 1852-1928, hdw.; 1929-, typed. 450 pp. 18 x 12 x 3. Clk. off.

143. RECORD OF SALE BILLS, 1852-. 7 vols. (1-7).

Record of sales of personal property in estate, guardianship, receivership, and surviving partnership causes, showing date and amount of sale; names of estate, guardianship, receivership, partnership, administrator or executor, guardian, receiver, surviving partner, and purchaser; description of property; and inventory number. Arr. chron. by dates of sales. Indexed alph. by names of estates, guardianships, receiverships and partnerships. 1852-1926, hdw.; 1927-, typed. 300 pp. 22 x 18 x 4. Clk. off.

MINUTES

144. ESTATE DOCKET, 1852-. 36 vols. Title varies: Probate Court Docket, 1852-1914, 31 vols.

Record of actions and proceedings in estate causes, showing cause number; dates of filing and action; names of decedent, heirs, administrator or executor, sureties, and attorneys; amount of bond; nature of action; and proceedings. Arr. num. by cause nos. No index. Hdw. 400 pp. 12 x 16 x 4. Deputy clk. off.

145. GUARDIANSHIP COURT DOCKET, 1855-. 4 vols. (1, 1, and two vols. not labeled). Title varies: Judge's Docket, Guardianship, 1855-67, 1 vol.

Record of actions and proceedings in guardianship causes, showing cause number; dates of filing and action; names of decedent, guardian, wards, attorneys, and sureties; amount of bond; and proceedings. Arr. num. by cause nos. 1855-1901, indexed alph. by names of wards; 1902-, no index. 400 pp. 16 x 12 x 3. Deputy clk. off.

146. ADMINISTRATOR, EXECUTOR, AND GUARDIAN'S DOCKET, 1867-74. 1 vol. (1).

Record of actions and proceedings in estate and guardianship causes of common pleas court, showing dates of filing and action; names of decedent, administrator or executor, heirs, guardian, wards, and sureties; amount of bond; and proceedings. Arr. chron. by dates of actions. Indexed alph. by names of decedents and wards. Hdw. 300 pp. 18 x 14 x 3. Deputy clk. off.

ORDERS

147. ORDER BOOK, PROBATE, 1837-. 40 vols. (A, B, 1-38). Record of actions and proceedings in estate and guardianship causes, showing cause number; dates of filing, action, and settlement; names of estate, guardianship, administrator or executor, guardian, wards, and heirs; nature of action; and disposition. Also contains: Inheritance and Transfer Tax Record, 1917-, entry 148. Arr. chron. by dates of actions. Indexed alph. by names of estates and wards. 1837-1901, hdw.; 1902-, typed. 500 pp. 18 x 12 x 4. Clk. off.

148. INHERITANCE AND TRANSFER TAX RECORD, 1913-16. 1 vol. 1917- in Order Book, Probate, entry 147. Record of orders determining value of estates and amount of inheritance tax, showing date of decedent's death; names of decedent and heirs; value of estate; and amounts of indebtedness, exemptions, and tax. Arr. chron. by dates of decedents' deaths. No index. Hdw. 300 pp. 18 x 24 x 2½. Clk. off.

For other inheritance tax records, see entry 179.

JUVENILE CAUSES

149. [JUVENILE DOCKET], 1927-. 1 vol. Record of actions and proceedings in juvenile causes, showing cause number, dates of filing and action, name and age of defendant, names of parents and witnesses, and disposition of cause. Arr. num. by cause nos. No index. Hdw. 200 pp. 9 x 12 x 3. Deputy clk. off.

150. JUVENILE ORDER BOOK, 1928-. 1 vol. (1). Record of actions and proceedings in juvenile causes, showing cause number, date and nature of action, names of complainant and defendant, and disposition. Arr. chron. by dates of actions. No index. Typed. 300 pp. 18 x 12 x 3. Clk. off.

MISCELLANEOUS COURT RECORDS

151. RECORD OF JURORS, 1886-. 2 vols. (2, and one vol. not labeled). Record of persons drawn for jury service, showing dates of impanelment and service, and names of jurors. Arr. chron. by dates of impanelments. No index. Hdw. 100 pp. 18 x 12 x 1. Clk. off.

For other jury records, see entries 171, 172.

FEE AND CASH RECORDS

152. TRANSCRIPT FEE BOOK, 1892-. 3 vols. (1-3). Record of fees assessed for execution of judgments rendered

in other courts, showing cause number; names of plaintiff, defendant, and foreign court; amount of fees; and date of collection. Arr. chron. by dates of collections. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

153. FEE BOOK, 1837-Aug. 19, 1913. 54 vols. (B-Z, 1-29). Aug. 20, 1913- in Entry & Issue Docket and Fee Book, entry 93.

Record of fees assessed in civil causes, showing dates of filing and payment, cause number, nature of action, names of plaintiff and defendant, and amount of fees. Also contains: Fee Book, Criminal, 1837-June 1873, entry 154; Clerk's Fee Book, Probate of Wills, 1837-52, entry 157. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

154. FEE BOOK, CRIMINAL, July 1873-. 19 vols. (A-S). 1837-June 1873 in Fee Book, entry 153.

Record of fees and costs in criminal causes, showing cause number, date and nature of indictment or affidavit, names of defendant and witnesses, date and amount of judgment, itemized statement of fees and costs, and date of satisfaction. Arr. num. by cause nos. No index. Hdw. 220 pp. 18 x 12 x 2½. Clk. off.

155. [FEE BOOK, ESTATES], 1853-1912. In Clerk's Fee Book, Probate of Wills, entry 157. 1913- in Estate Entry, Claim and Allowance Docket and Fee Book, entry 131.

Record of fees assessed in estate causes, showing cause number; names of decedent, heirs, and administrator or executor; amount of fees; and date of payment.

156. FEE BOOK [Guardianship], 1892-Sept. 2, 1913. 1 vol. 1853-91 in Clerk's Fee Book, Probate of Wills, entry 157. Sept. 3, 1913- in Guardianship Docket and Fee Book, entry 132.

Record of fees and costs in guardianship causes, showing cause number; names of decedent, guardian, and wards; itemized list of fees and costs; and date of payment. Arr. chron. by dates of payments. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

157. CLERK'S FEE BOOK, PROBATE OF WILLS, 1853-. 8 vols. (1, 2, C, 4-7, 1). Title varies: Fee Book, Probate, 1853-1913, 4 vols.; Fee Book, Administrators, 1914-27, 3 vols. 1837-52 in Fee Book, entry 153.

Record of fees assessed for probate of wills, showing cause

number, names of decedent and payer, amount and nature of fees, date of payment, and volume and page reference to Estate Entry, Claim and Allowance Docket and Fee Book, entry 131. Also contains: [Fee Book, Estates], 1853-1912, entry 155; Fee Book [Guardianship], 1853-91, entry 156. Arr. num. by cause nos. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

158. FEE BOOK, JUVENILE, 1923-. 1 vol.

Record of fees assessed in juvenile causes, showing cause number, nature of action, names of complainant and defendant, and amount of fees. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 12 x 18 x 3. Clk. off.

159. FEE BOOK, COMMON PLEAS COURT, 1853-73. 6 vols. (1-6).

Record of fees and costs in civil, criminal, and probate causes of common pleas court, showing cause number; date of filing; names of plaintiff, defendant, attorneys, and guardian, administrator or executor; amounts of fees and costs; and date of payment. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 200 pp. 14 x 7 x 2. Clk. off.

VI. SHERIFF

LEGAL STATUS

The office of sheriff was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Jay County since its organization in 1836. The sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the office more than 4 years in any 6-year period.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The sheriff must be an elector of the county at the time of his election, must have been an

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 2, sec. 11; art. 6, sec. 2. Acts 1816-17, ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13. Rev. Laws 1824, ch. 35, sec. 13; ch. 59, sec. 1; ch. 100, secs. 5, 6, 8. Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. Gemmer v. State *ex rel.* Stephens (1904), 163 Ind. 150, 71 N. E. 478.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 13, secs. 1, 8. Rev. Laws 1824, ch. 100, secs. 1, 2, 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5.

inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election, must not hold any other lucrative office,⁵ and must not practice law.⁶ He must post bond in an amount between \$5,000 and \$15,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The sheriff must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The sheriff receives a regular salary of \$1,920 per year.⁹ He is permitted to retain, as compensation for himself, the fees charged for his services in the execution of process issued by courts outside of the county and in the collection of gross income taxes as directed by the state department of treasury. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is entitled to an allowance of \$400 per year to cover the cost of such maintenance, or is entitled, in lieu thereof, to a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives. If the county owns and maintains the vehicles used by him, he is not entitled to an allowance for mileage or for maintenance of the vehicles.¹⁰ For each meal served

⁴ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁵ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Laws 1824, ch. 36, sec. 18.

⁶ Rev. Laws 1824, ch. 8, sec. 6. Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

⁷ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1821-22, ch. 46, secs. 1, 2. Rev. Laws 1824, ch. 69, sec. 4; ch. 100, secs. 2, 8. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2301; Baldwin, 1937 suppl., 5493.

⁸ Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 100, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2260. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057. Acts 1937; Burns, 1939 suppl., 49-2301; Baldwin, 1937 suppl., 5493. *State ex rel. Chapman v. Lines* (1853), 4 Ind. 351.

⁹ Acts 1816-17, ch. 19, sec. 16. Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Rev. Laws 1824, ch. 41, sec. 12. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns, 1939 suppl., 49-1008; Baldwin, 1937 suppl., 7538. Acts 1932 (Spec. Sess.); Burns 49-1315, 49-1316; Baldwin 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13528-1. Acts 1933, 1937; Burns, 1939 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). *McFarland v. State* (1897), 149 Ind. 149; *Board of County Comrs. v. Baker* (1939), —Ind.—, 19 N. E. (2d) 250. *Opinions of the Attorney General of Indiana*, 1923, p. 582; 1934, p. 367; 1938, p. 303; 1939, pp. 171, 253, 328.

to the prisoners in his charge, the sheriff receives an allowance not exceeding 20 cents, as determined annually by the state examiner.¹¹

For sufficient legal grounds the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of sheriff is filled through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The sheriff may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries which must be not less than \$75 nor more than \$125 per month. The sheriff may require the deputy to give bond. The deputy must take the oath required of the sheriff, may perform all the official duties of the sheriff, and is subject to the same regulations and penalties. The sheriff may remove such deputy and assistants at any time, and is responsible for their official acts.¹⁵

¹¹ Acts 1817-18 (general), ch. 61, sec. 6. Rev. Laws 1824, ch. 77, sec. 7. Acts 1935; Burns, 1939 suppl., 49-1323; Baldwin, 1935 suppl., 13455-1. *Opinions of the Attorney General of Indiana, 1934*, p. 107.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Laws 1824, ch. 29, sec. 34. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, secs. 7, 9. Acts 1820-21, ch. 19, sec. 1. Rev. Laws 1824, ch. 100, secs. 7-9, 11. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-403, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437. *Akers v. State ex rel. Kent* (1856), 8 Ind. 484; *State ex rel. Culbert v. Linkhauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁵ Acts 1818-19, ch. 17, sec. 3. Rev. Laws 1824, ch. 100, sec. 10. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-503; Baldwin 13109, 13110. Acts 1921; Burns 49-504; Baldwin 13111. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Boaz v. Tate* (1873), 43 Ind. 60. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county. He is required to arrest without process all persons who within his view commit any criminal offense under the state laws, and detain them in custody during investigation of the cause of the arrest; suppress all breaches of the peace, having authority to call to his aid the power of the county; pursue and commit to jail all felons; maintain the jail and take care of the prisoners confined therein (persons held for investigation, defendants awaiting trial, and convicts); execute all process, orders, and warrants directed to him by legal authority; and to preserve and maintain order in all courts in the county, except those of justices of the peace.¹⁶

The sheriff makes arrests on warrants issued on indictments and affidavits, and detains the arrested persons in jail or releases them on bail as provided by law; serves summonses in cases of misdemeanors;¹⁷ deputizes bystanders to aid him in protecting persons from being lynched;¹⁸ calls the petit jury for civil and criminal cases as prescribed by law or directed by the court;¹⁹ performs the duties of bailiff of the circuit court if no bailiff is appointed by the judge of that court;²⁰ transports persons committed to the charitable,

¹⁶ Acts 1816-17, ch. 2, secs. 7, 10; ch. 4, secs. 6, 7, 10, 31; ch. 5, sec. 51; ch. 6, sec. 1; ch. 10, sec. 15; ch. 24, sec. 3; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, sec. 1; ch. 32, sec. 6; ch. 48, secs. 3, 4; ch. 62, secs. 2-4; ch. 63, sec. 2; ch. 66, sec. 1. Acts 1817-18 (special), ch. 2, sec. 7. Acts 1820-21, ch. 5, sec. 1; ch. 13, secs. 1, 2. Acts 1821-22, ch. 4, secs. 4-6. Rev. Laws 1824, ch. 1, sec. 6; ch. 5, secs. 2, 10; ch. 24, secs. 6, 8, 10; ch. 34, sec. 12; ch. 56, secs. 3, 5; ch. 73, secs. 2, 4, 27; ch. 74, secs. 8, 10, 41; ch. 100, sec. 10; ch. 117, secs. 1-3. Acts 1881 (Spec. Sess.); Burns 2-802, 3-522, 3-1910 to 3-1913, 3-2705; Baldwin 83, 791, 1026 to 1029, 1202. Acts 1905; Burns 10-3707; Baldwin 2654. Acts 1903; Burns 35-411; Baldwin 8541. 2 Rev. Stat. 1852; Burns 49-2802, 49-2803; Baldwin 5494, 5495. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1919; Burns 64-1303; Baldwin 15707.

¹⁷ Acts 1816-17, ch. 2, sec. 7; ch. 4, secs. 7, 10. Acts 1817-18 (general), ch. 20, sec. 1; ch. 54, sec. 3; ch. 64, sec. 5; ch. 73, sec. 3. Acts 1818-19, ch. 1, sec. 6; ch. 7, sec. 2; ch. 10, secs. 1, 2. Acts 1819-20, ch. 25. Acts 1821-22, ch. 23, sec. 8; ch. 64, secs. 2-4. Rev. Laws 1824, ch. 23, sec. 3; ch. 29, secs. 70, 82; ch. 40, secs. 14, 17; ch. 46, secs. 1, 3; ch. 47, secs. 1-3; ch. 50, sec. 1; ch. 54, secs. 10, 11, 14; ch. 77, secs. 2, 4, 7; ch. 78, sec. 3; ch. 100, sec. 10; ch. 114, secs. 2, 4. Acts 1905, 1937; Burns, 1939 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

¹⁸ Rev. Laws 1824, ch. 100, sec. 14. Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. State *ex rel.* Maxwell v. Dudley (1903), 161 Ind. 431, 68 N. E. 899.

¹⁹ Rev. Laws 1824, ch. 56, sec. 3. Acts 1831 (Spec. Sess.); Burns 2-2002; Baldwin 327. Acts 1905; Burns 9-1501; Baldwin 2246.

²⁰ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

correctional, and penal institutions operated by the state;²¹ seizes and sells property as directed by any circuit court or superior court, and executes conveyances to the purchasers;²² executes the process of the Supreme Court of Indiana, the Appellate Court of Indiana,²³ the state board of tax commissioners,²⁴ the state department of treasury (collection of gross income tax),²⁵ the state unemployment compensation board (collection of assessments against employers),²⁶ the state industrial board,²⁷ the county board of election commissioners, and the county board of canvassers,²⁸ when officially directed to do so; attends sessions of the board of commissioners,²⁹ county council,³⁰ and board of review,³¹ and executes the orders of those boards; issues licenses for the retail sale of pistols;³² makes investigations of poultry dealers, and receives weekly reports from them;³³ kills unlicensed dogs after June 15 each year;³⁴ assists the state

²¹ Rev. Laws 1824, ch. 29, secs. 83, 84. Acts 1905: Burns 9-2232, 22-2013; Baldwin 2339, 4205. Acts 1927; Burns 22-1213; Baldwin 4305. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1809; Baldwin 4264.

²² Acts 1817-18 (general), ch. 61, secs. 2, 3. Acts 1819-20, ch. 56, secs. 1-3; ch. 72, secs. 10, 11. Acts 1820-21, ch. 1, secs. 3, 8; ch. 19, sec. 6. Acts 1821-22, ch. 14, sec. 1; ch. 43, sec. 4; ch. 79, sec. 2. Rev. Laws 1824, ch. 5, secs. 13, 22, 26, 28; ch. 6, sec. 4; ch. 34, secs. 2, 5, 11; ch. 39, sec. 6; ch. 40, secs. 3-5, 7-10, 12, 18, 19, 22; ch. 45, secs. 10, 14; ch. 73, sec. 22; ch. 85, secs. 5, 6; ch. 99, sec. 2; ch. 114, sec. 3. 2 Rev. Stat. 1852, ch. 8, sec. 472. Acts 1881 (Spec. Sess.); Burns 2-3601, 2-4101, 3-1819; Baldwin 574, 619, 1014. Acts 1931; Burns 3-1806; Baldwin 1008.

²³ Acts 1816-17, ch. 1, secs. 6, 9, 10. Rev. Laws 1824, ch. 25, secs. 6, 12; ch. 100, sec. 13. Acts 1891; Burns 4-230; Baldwin 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

²⁴ Acts 1919; Burns 64-1303; Baldwin 10705.

²⁵ Acts 1933, 1937; Burns, 1939 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). *Opinions of the Attorney General of Indiana, 1938*, p. 303; *1939*, pp. 171, 258.

²⁶ Acts 1936 (Spec. Sess.), 1939; Burns, 1939 suppl., 52-1514(b); Baldwin, 1939 suppl., 10168-61.

²⁷ Acts 1937; Burns, 1939 suppl., 40-2217(a); Baldwin, 1937 suppl., 16515(a).

²⁸ Acts 1905; Burns 29-1403; Baldwin 7384.

²⁹ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6; ch. 86, secs. 5, 29, 42. Rev. Stat. 1843, ch. 7, sec. 5. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

³⁰ Acts 1899; Burns 26-510; Baldwin 5374.

³¹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³² Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

³³ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803(b); Baldwin 10487.

³⁴ Acts 1937; Burns, 1939 suppl., 16-330; Baldwin, 1937 suppl., 3811-14.

board of health in the administration of laws concerning leprosy;³⁵ and gives public notice of the holding of elections. In the early days of the county he performed various duties concerning elections.³⁶

The sheriff keeps in his office, open to public inspection, written information (furnished by the state department of public safety) as to motor vehicle operators' and chauffeurs' licenses issued, denied, suspended, revoked, and existing in the state.³⁷ Information concerning stolen motor vehicles is reported by the sheriff to the state motor vehicle commissioner.³⁸ The sheriff receives reports of deaths resulting from the operation of motor vehicles in the county (except in cities and towns), makes immediate investigations concerning such deaths, and reports the facts to the state department of public safety within 24 hours thereafter.³⁹ All arrests made by the sheriff for the violation of laws concerning the operation of motor vehicles are reported by him to the state motor vehicle commissioner.⁴⁰

For public displays of fireworks in the county (except in cities and towns), the sheriff approves the location, operator, permit, and indemnity bond, in accordance with regulations prescribed by the state fire marshal.⁴¹ From 1911 until 1935 the sheriff assisted local health authorities in quarantining, muzzling, and killing dogs in accordance with the laws concerning hydrophobia.⁴²

The sheriff charges the fees provided by law for the services he performs and pays the same over to the county

³⁵ Acts 1917; Burns 35-504; Baldwin 8546.

³⁶ Acts 1816-17, ch. 9, secs. 1, 15, 16, 19, 22; ch. 12, sec. 5; ch. 14, secs. 2, 6, 8. Acts 1817-18 (special), ch. 3, secs. 1-3. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, secs. 1, 8; ch. 49, sec. 5; ch. 54, sec. 3; ch. 57, sec. 9; ch. 61, secs. 1-6. Rev. Laws 1824, ch. 35, secs. 15, 16, 22; ch. 36, sec. 1; ch. 37, secs. 1, 2; ch. 59, sec. 3. 1 Rev. Stat. 1852, ch. 31, sec. 2. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. *Demaree v. Johnson* (1897), 150 Ind. 419, 49 N. E. 1062.

³⁷ Acts 1937, 1939; Burns, 1939 suppl., 47-442; Baldwin, 1939 suppl., 11317-11.

³⁸ Acts 1921; Burns 47-314; Baldwin 11142.

³⁹ Acts 1933, ch. 189, sec. 2. Acts 1937, ch. 129, sec. 1. Acts 1939; Burns, 1939; suppl., 47-1915, 47-1916; Baldwin, 1939 suppl., 11189-54, 11189-55.

⁴⁰ Acts 1937; Burns, 1939 suppl., 47-442; Baldwin, 1937 suppl., 11317-17.

⁴¹ Acts 1939; Burns, 1939 suppl., 20-1102, 20-1103; Baldwin, 1939 suppl., 2542-2, 2542-3.

Interview of April 15, 1940 with Clem Smith, state fire marshal.

⁴² Acts 1911, ch. 98, secs. 5, 6 (repealed by Acts 1935, ch. 271, sec. 1).

treasurer, except as otherwise stated herein.⁴³ Fines imposed by the circuit court are collected by him and paid over to the county treasurer.⁴⁴

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁴⁵

Whenever the sheriff is unable to attend to his duties, the coroner performs them;⁴⁶ and if both the sheriff and coroner are unable to act, it is then the duty of the judge of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.⁴⁷

The sheriff keeps a cashbook, a fee book,⁴⁸ a jail record,⁴⁹ a poultry dealers' record,⁵⁰ and a record of the service of process.⁵¹ Quarterly and at the end of his term of office the sheriff reports to the auditor the amount of all fees collected during the time intervening since his last preceding report.⁵² He makes an annual written report, under oath, to the circuit court showing all executions and

⁴³ Rev. Laws 1824, ch. 24, sec. 13; ch. 41, secs. 2, 7, 9; ch. 72, sec. 23; ch. 100, sec. 11. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁴⁴ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1817-18 (special), ch. 4, sec. 1. Rev. Laws 1824, ch. 22, sec. 8; ch. 29, sec. 80; ch. 57, sec. 42; ch. 100, sec. 11. Acts 1871, ch. 17, sec. 20. Acts 1905, 1927; Burns 9-2226 to 9-2228; Baldwin 2332, 2334, 2335.

⁴⁵ 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

⁴⁶ Acts 1816-17, ch. 13, sec. 9. Rev. Laws 1824, ch. 100, sec. 7. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

⁴⁷ 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

⁴⁸ Acts 1871, ch. 17, secs. 17, 20. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁴⁹ Rev. Laws 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

⁵⁰ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

⁵¹ Record required by the state board of accounts. Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁵² Acts 1871, ch. 17, sec. 20. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered on the order book of the circuit court.⁵³

SERVICE ON WRITS

160. SHERIFF'S CIVIL DOCKET, 1864-. 19 vols. (1-4, 1-15). Sheriff's Docket, 1864-Jan. 8, 1885, Nov. 28, 1893-Apr. 1896, 4 vols.; Sheriff's Summons Docket, Jan. 9, 1885-Jan. 3, 1888, 1 vol.

Record of services on writs in civil causes, showing cause number; dates received, served, and returned; names of plaintiff, defendant, and witnesses; and amount of fees. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 22 x 14 x 3. 7 vols., 1864-Feb. 1891, Jan. 1907-Feb. 1911, Feb. 1928-June 17, 1931, bsmt. stor. rm.; 12 vols., Feb. 10, 1891-Dec. 1906, Mar. 1911-Jan. 1928, June 18, 1931-, sher. off.

161. SHERIFF'S STATE DOCKET, 1879-. 4 vols. (1, 1-3).

Record of service on writs in criminal causes, showing cause number; dates received, served, and returned; names of plaintiff, defendant, and witnesses; kind of writ; and amount of fees. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 300 pp. 20 x 14 x 3. 2 vols., 1879-Apr. 15, 1909, bsmt. stor. rm.; 2 vols., Apr. 16, 1909-, sher. off.

162. SHERIFF'S FOREIGN RECORD, 1909-. 2 vols. (1, 1).

Record of sheriffs' fees for service on foreign writs, showing cause number; dates received and served; kind of writ; names of plaintiff, defendant, and foreign county; amount of fees; and sheriffs' return. Arr. chron. by dates served. No index. Hdw. 300 pp. 18 x 12 x 2. Sher. off.

163. WARRANTS, 1910-. 1 f. b.

Original warrants, showing dates of warrant and appearance, names of individual and court, and nature of charge. Arr. chron. by dates of warrants. No index. Hdw. 10 x 4 x 14. Sher. off.

EXECUTIONS ON JUDGMENTS

(See also entries 117-121)

164. EXECUTION DOCKET, 1870-. 17 vols. (two vols. not labeled, 2-5, 2, 3, 8-16).

Record of writs issued for execution on judgments, showing

⁵³ Acts 1905; Burns 9-1034; Baldwin 2179. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

dates of writ, service, and return; names of plaintiff and defendant; cause number; kind of writ; amounts of judgment, fees and costs; and sheriff's return. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs. Hdw. 300 pp. 22 x 14 x 3. 6 vols., 1870-Nov. 11, 1884, Nov. 13, 1888-Nov. 17, 1890, bsmt. stor. rm.; 11 vols., Nov. 12, 1884-Nov. 12, 1888, Nov. 18, 1890—, sher. off.

165. ADVERTISEMENT OF SALE, 1920—. 1 f. b.

Duplicate certificates of sale issued by sheriff for property sold on court order, showing dates of court order, judgment, sale, and publication; names of plaintiff, defendant, owner, purchaser, publisher, and publication; cause number; location and description of property; amount of sale; and copy of newspaper notice. Arr. chron. by dates of sales. No index. Hdw. and typed. 10 x 4 x 14. Sher. off.

166. SHERIFF'S DEED RECORD, 1877-1928. 2 vols. (1, 2).

Record of deeds for conveyance of titles to real property sold to satisfy judgments, showing dates of judgment, sale, and deed; names of plaintiff, purchaser, and grantee; location and description of property; and amount of consideration. Arr. chron. by dates of deeds. Indexed alph. by names of plaintiffs. Hdw. 250 pp. 20 x 14 x 3. Sher. off.

For other sheriff's deed records, see entry 66.

JAIL RECORDS

167. JAIL REGISTER, 1871—. 3 vols. (one vol. not labeled, 1, 2).

Register of prisoners committed to county jail, showing date and time of admittance; name, sex, age, color, place of birth, and residence of prisoner; names of officials ordering commitment and release; reason for commitment; amount of bail; date of release; and amounts of fine, costs, and board. Arr. chron. by dates of admittance. No index. Hdw. 400 pp. 20 x 14 x 3. Sher. off.

168. COMMITMENT, 1919—. 1 f. b.

Original orders issued to sheriff committing persons to jail, showing date of order, names of defendant and official issuing order, nature of charge, length of sentence, and amounts of fine and costs. Arr. chron. by dates of orders. No index. Hdw. 10 x 4 x 14. Sher. off.

169. RELEASE, 1919—. 1 f. b.

Original orders issued to sheriff for release of prisoners confined in jail, showing date of order, name of prisoner

and official authorizing release, and reason for release. Arr. chron. by dates of orders. No index. Hdw. 10 x 4 x 14. Sher. off.

170. RECEIPTS FROM STATE PRISONS, 1921-. 1 f. b. Sheriff's receipts for prisoners delivered to state prisons, showing dates of sentence and delivery, names of prisoner and prison, nature of crime, duration of imprisonment, and amount of expenses. Arr. chron. by dates of deliveries. No index. Hdw. 10 x 4 x 14. Sher. off.

JURIES

(See also entry 151)

171. JURY VENIRE, GRAND AND PETIT, 1916-. 1 f. b. Writs issued by clerk to sheriff to summon persons selected for jury service, showing date of writ, name and address of person selected, date and place of appearance, and court term. Arr. chron. by dates of writs. No index. Hdw. 10 x 4 x 14. Sher. off.

172. JURY REGISTER, 1916-. 1 vol. Record of jurors' mileage and fees, showing court term, name of juror, days served, miles traveled, and amount of fees. Arr. chron. by court terms. No index. Hdw. 300 pp. 20 x 18 x 3. Sher. off.

REPORTS

173. STATE BOARD OF ACCOUNTS, 1909-31. 1 f. b. Reports of audits of sheriff's records by field examiners of state board of accounts, showing date of report and period covered, names of sheriff and field examiners, condition of accounts, and recommendations. Arr. chron. by dates of reports. No index. Typed. 10 x 4 x 14. Sher. off.

FEE AND CASH RECORDS

174. SHERIFF'S FEE BOOK, 1871-. 9 vols. (two vols. not labeled, 1-7).

Record of fees collected, showing cause number, date of service, names of plaintiff and defendant, kind of writ, and amount of fees. Arr. chron. by dates of service. Indexed alph. by names of plaintiffs. Hdw. 400 pp. 20 x 14 x 2. 4 vols., 1871-92, 1902-12, 1928-33, bsmt. stor. rm.; 5 vols., 1893-1901, 1913-27, 1934-, sher. off.

175. SHERIFF'S CASH BOOK, 1902-. 2 vols. (1, 1).

Record of receipts and disbursements, showing dates and amounts of receipt and disbursement, names of payer and payee, and cause number. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 250 pp. 20 x 14 x 2. Sher. off.

176. MILEAGE CLAIM RECORD, 1929-. 1 vol. (1).

Record of miles traveled, showing cause number, date and nature of service, name of person processed, miles traveled, and amount of fees. Arr. chron. by dates of service. No index. Hdw. 500 pp. 20 x 14 x 2. Sher. off.

MAPS

177. COUNTY OF JAY, THE TOWNSHIPS IN JAY COUNTY, not dated. 1 map.

Political and communications map of Jay County, showing township and precinct boundaries; names of farm owners; locations of farms, roads, ditches, creeks, rivers, churches, rural mail routes, and steam and electric railroads; and Congressional Township, section, and range lines and numbers. Black and white. 48 x 46. No scale given. Sher. off.

VII. CORONER

LEGAL STATUS

The office of coroner was created by the Constitution of 1816, was reestablished by the Constitution of 1851, and has existed in Jay County since its organization in 1836. The coroner is elected for a 2-year term by the voters of the county, without restrictions on reelection.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The coroner must be an elector of the county at the time of his election, must have

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13. Rev. Laws 1824, ch. 35, sec. 13; ch. 100, secs. 5, 6, 8. Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

Exemption of coroner from arrest. Acts 1817-18 (general), ch. 54, sec. 3. Rev. Laws 1824, ch. 78, sec. 3.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 13, secs. 1, 8. Rev. Laws 1824, ch. 100, secs. 1, 2, 5, 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5.

been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ Before May 6, 1853 he could not practice law.⁶ He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The coroner must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The coroner receives as compensation for himself for impaneling and swearing witnesses and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile necessarily traveled in performing his duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff. The coroner can employ a clerk, at a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition.⁹

For sufficient legal grounds the coroner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹⁰ If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.¹¹

Any vacancy in the office of coroner is filled through

⁴ Const. 1851, art. 15, sec. 4.

⁵ *Ibid.*, art. 2, sec. 9; art. 6, sec. 6.

⁶ Rev. Laws 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8, sec. 6. Rev. Stat. 1843, ch. 38, sec. 101. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing previous laws). *Jones v. Cavins* (1853), 4 Ind. 305.

⁷ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1821-22, ch. 46, secs. 1, 2. Rev. Laws 1824, ch. 69, sec. 4; ch. 100, secs. 2, 8. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁸ Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 100, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁹ Acts 1871, ch. 17, sec. 13. Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

¹⁰ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Laws 1824, ch. 29, sec. 34. Acts 1897, 1899; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹¹ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹²

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury in 1879.¹³

FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.¹⁴ He holds inquests without a jury,¹⁵ and may subpoena witnesses and employ a physician or surgeon for post-mortem examinations.¹⁶ If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,¹⁷ and may require witnesses to give recognizances for their appearance at the trial of the accused.¹⁸ The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken¹⁹ and a written report giving a minute description of the deceased

¹² Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, sec. 7. Acts 1817-18 (general), ch. 17, sec. 8. Rev. Laws 1824, ch. 100, secs. 7, 8. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. ¹ Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹³ Acts 1816-17, ch. 6, sec. 1; ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, secs. 1-9; ch. 54, sec. 3; ch. 57, sec. 9; ch. 66, sec. 1. Acts 1819-20, ch. 25. Rev. Laws 1824, ch. 100, secs. 10-22. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. ² Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁴ Acts 1817-18 (general), ch. 20, sec. 2. Rev. Laws 1824, ch. 100, sec. 15. ² Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a.

¹⁵ Acts 1817-18 (general), ch. 20, secs. 2-5. Rev. Laws 1824, ch. 100, secs. 15-18. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁶ Acts 1817-18 (general), ch. 20, secs. 6, 7. Rev. Laws 1824, ch. 100, sec. 20. ² Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

¹⁷ Acts 1817-18 (general), ch. 20, sec. 9. Rev. Laws 1824, ch. 100, sec. 22. ² Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

¹⁸ Rev. Laws 1824, ch. 100, sec. 21. ² Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

¹⁹ *Ibid.* ² Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

and valuables found with the body. If no person authorized to receive these valuables can be found after publication of notice, they are sold and the proceeds of sale are turned over to the county treasurer for the common school fund.²⁰ The coroner acts in a nonjudicial capacity, and his findings are not binding upon any person.²¹ When the coroner is absent from the county or unable to attend an inquest, any justice of the peace of the county may hold the inquest.²² The coroner makes a written report each month, to the state department of public safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.²³ He is a peace officer with the same powers as the sheriff.²⁴ The coroner acts as sheriff in event of the absence, personal interest, or incapacity of the sheriff, or vacancy in the sheriff's office.²⁵ All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.²⁶

The coroner is not required to keep any records permanently.²⁷

178. [CORONER'S INQUESTS], 1920—. In [Miscellaneous Court Documents], entry 97.

Coroner's reports on inquests held to establish cause of violent, accidental, and sudden deaths, showing dates of death, inquest, and filing; name and physical description of decedent; names and statements of witnesses; and coroner's verdict.

²⁰ 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.), 1913; Burns 49-2909, 49-2910, 49-2913; Baldwin 5443, 5444, 5447.

²¹ Const. 1816, art. 2; art. 4, sec. 25; art. 5, sec. 1. Const. 1851, art. 3, sec. 1; art. 6, sec. 2; art. 7, sec. 1. *Stults v. Board of County Comrs.* (1907), 168 Ind. 539, 81 N. E. 471; *Peoria Cordage Co. v. Industrial Board of Illinois* (1918), 284 Ill. 90, 119 N. E. 996; *Spiegel's House Furnishing Co. v. Industrial Board of Illinois* (1919), 288 Ill. 422, 123 N. E. 606; *People of New York v. Coombs* (1899), 158 N. Y. 532, 53 N. E. 527.

²² Rev. Laws 1824, ch. 100, sec. 23. 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

²³ Acts 1939; Burns, 1939 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58.

²⁴ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 20, sec. 1; ch. 57, sec. 9. Acts 1819-20, ch. 25. Acts 1820-21, ch. 13, secs. 1, 2. Rev. Laws 1824, ch. 22, sec. 8; ch. 46, sec. 1; ch. 100, sec. 10. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

²⁵ Acts 1816-17, ch. 13, sec. 9. Rev. Laws 1824, ch. 36, secs. 1, 2; ch. 37, sec. 2; ch. 45, sec. 14; ch. 100, secs. 8, 9. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²⁶ Acts 1816-17, ch. 13, sec. 9. Acts 1819-20, ch. 46, sec. 2. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

²⁷ *Board of County Comrs. v. Gillum* (1884), 92 Ind. 511. Interview of August 30, 1939 with E. P. Brennan, state examiner.

VIII. PROSECUTING ATTORNEY

LEGAL STATUS

The office of prosecuting attorney was created by an act of 1831; was reestablished by acts of 1838, 1843, 1847, and the Constitution of 1851; and has existed in Jay County since 1836. The prosecuting attorney is elected by the voters of the judicial circuit for a 2-year term without restrictions on reelection.¹ Jay County alone constitutes the 58th judicial circuit.² He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ He must be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the judicial circuit after his election, and must not hold any other lucrative office.⁶ He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court),⁷ and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The prosecuting attorney of Jay County receives a regular salary of \$1,950 per year payable out of the county treasury. He is entitled to reimbursement for expenses incurred when attending conferences called by the attorney general. He is

¹ Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robinson v. Moser (1931), 203 Ind. 66, 179 N. E. 270. See footnotes 17, 18 herein.

² Acts 1937, ch. 73, sec. 1.

From the organization of Jay County in 1836 until March 1, 1897 the county belonged to judicial circuits composed of more than one county. See the essay entitled "Circuit Court."

³ Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State *ex rel.* Howard v. Johnston (1885), 101 Ind. 223.

⁷ Rev. Laws 1824, ch. 24, sec. 11. Rev. Laws 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 84-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁸ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 24, sec. 11. Rev. Laws 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 92. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

not permitted to retain, as compensation for himself, any fees collected by him.⁹

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.¹⁰

If the prosecuting attorney is convicted of corruption or other high crime, he may be removed from office by the supreme court. This is the only method by which he may be removed from office.¹¹

Any vacancy in the office of prosecuting attorney is filled through appointment by the governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹²

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners.¹³ The deputies must take the oath required of the prosecuting attorney, may perform all his official

⁹ Acts 1810 ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1, 2. Acts 1814, ch. 3, secs. 4, 5. Rev. Laws 1824, ch. 24, secs. 9, 12, 13. Rev. Laws 1831, ch. 10, sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1861, ch. 41, sec. 133. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2640, 49-2695; Baldwin 7549, 7550. *Opinions of the Attorney General of Indiana, 1937*, p. 676; *1938*, p. 234. See footnote 53 herein.

¹⁰ Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3104; Baldwin 2637, 2638.

Liquor licenses. Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

¹¹ Const. 1851, art. 7, sec. 12. Acts 1816-17, ch. 10, sec. 15. Acts 1897; Burns 49-819; Baldwin 13152. *State ex rel. Gibson v. Friedley* (1893), 135 Ind. 119, 34 N. E. 872; *State v. Patterson* (1914), 181 Ind. 660, 105 N. E. 228; *State v. Redman* (1915), 183 Ind. 332, 109 N. E. 184; *State ex rel. Williams v. Ellis* (1916), 184 Ind. 307, 112 N. E. 98; *State v. Dearth* (1929), 201 Ind. 1, 164 N. E. 489; *State ex rel. Youngblood v. Warrick Circuit Court* (1935), 208 Ind. 594, 196 N. E. 254; *State ex rel. Spencer v. Marion Criminal court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020. Interview of July 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹² Const. 1851, art. 5, sec. 13; art. 6, sec. 9. Acts 1825-26, ch. 44, sec. 3. Rev. Laws 1831, ch. 10, sec. 4. Rev. Stat. 1838, ch. 6 (first act), sec. 4. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-403, 49-409; Baldwin 13101, 13103, 13106, 13107. *State ex rel. Custer v. Schortemeier* (1929), 197 Ind. 507, 151 N. E. 407. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹³ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, 49-2695; Baldwin 7548, 7550.

duties, and are subject to the same regulations and penalties.¹⁴ The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.¹⁵ Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.¹⁶

From the organization of Jay County in 1836¹⁷ until 1843 a prosecuting attorney for the judicial circuit was appointed for a 2-year term by joint ballot of the senate and house of representatives. From 1843 until 1847 he was elected for a 2-year term by the voters of the judicial circuit. From 1847 until 1851 his term was 3 years. Since 1851 his term has been 2 years.¹⁸

Jay County had a court of common pleas from 1853 until 1873. The judicial district of that court was composed of the counties of Jay and Randolph from 1853 until 1859, and the counties of Blackford, Delaware, Jay, and Randolph from 1859 to 1873.¹⁹ During the existence of the court of common pleas, a district attorney was biennially elected by the voters of the judicial district of that court. The district attorney's duties were similar to those of the prosecuting attorney, except that they extended only to the courts of common pleas and the courts of justices of the peace in the counties forming the judicial district of the court of common pleas.²⁰

¹⁴ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Stout v. State* (1884), 93 Ind. 150.

¹⁵ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. *Acts* 1933; Burns 49-2602; Baldwin 7548.

¹⁶ Rev. Laws 1824, ch. 24, sec. 12. *Acts* 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. *Acts* 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State* (1926), 197 Ind. 401, 141 N. E. 52; *State ex rel. Williams v. Ellis* (1916), 184 Ind. 307, 112 N. E. 98; *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

¹⁷ *Acts* 1834-35 (general), ch. 25, sec. 3. *Acts* 1835-36 (general), ch. 15.

¹⁸ Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. *Acts* 1810, ch. 10, sec. 5. *Acts* 1813-14, ch. 12, secs. 1-5; ch. 29, secs. 1, 2. *Acts* 1814, ch. 2, secs. 1, 2; ch. 3, secs. 4, 5. *Acts* 1816-17, ch. 3, sec. 2. Rev. Laws 1824, ch. 24, secs. 9, 10. *Acts* 1826-27, ch. 17, sec. 1. Rev. Laws 1831, ch. 10, sec. 1. Rev. Stat. 1838, ch. 9 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 28; ch. 58, sec. 1; ch. 59, sec. 21; ch. 73, sec. 1. *Acts* 1842-43, ch. 13, sec. 1. *Acts* 1846-47 (general), ch. 13, sec. 1. *Acts* 1850-51 (general), ch. 132, secs. 1-3. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

¹⁹ See the essay entitled "Circuit Court."

²⁰ *Acts* 1851-52, ch. 8. 2 Rev. Stat. 1852, pt. 3, ch. 3. *Acts* 1861 (Spec. Sess.), ch. 25; ch. 28, sec. 1. *Acts* 1873, ch. 29, sec. 79.

FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.²¹ He acts as attorney for the state in criminal cases under the state laws and as attorney for the state and county in certain civil cases.²²

Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,²³ the sheriff,²⁴ or the coroner,²⁵ cooperating with one another and with state, and federal bureaus of law enforcement;²⁶ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²⁷

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.²⁸ When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill," and signs his name thereunder. The indictment is also signed by the prosecuting attorney.²⁹

²¹ State *ex rel.* Freed v. Martin Circuit Court (1938), 214 Ind. 152, 14 N. E. (2d) 910; State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²² *Ibid.* Acts 1817-18 (general), ch. 4, sec. 2. Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 37, sec. 101. Acts 1851-52, ch. 8, secs. 1, 3, 4. Acts 1905; Burns 4-2409; Baldwin 11595. 2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

²³ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." State *ex rel.* Spencer v. Marion Criminal Court (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

²⁴ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁵ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁶ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²⁷ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

²⁸ Acts 1905; Burns 9-826; Baldwin 2122. Williams v. State (1919), 188 Ind. 283, 123 N. E. 209.

²⁹ Acts 1905; Burns 9-901; Baldwin 2123. Neal v. State (1938), 214 Ind. 328, 14 N. E. (2d) 590.

Endorsement by prosecuting attorney. Taylor v. State (1888), 113 Ind. 471, 16 N. E. 183; Robinson v. State (1912), 177 Ind. 263, 97 N. E. 929; Hamer v. State (1928), 200 Ind. 403, 163 N. E. 91.

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.³⁰ He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder (which must be prosecuted on indictment).³¹

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,³² including suits to collect taxes and tax penalties³³ and suits against officers or on their bonds.³⁴

The statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State* (1938), 213 Ind. 560, 12 N. E. (2d) 270.

³⁰ Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

³¹ Acts 1905, 1927; Burns 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. *Robinson v. State* (1912), 177 Ind. 263, 97 N. E. 929.

A court cannot compel the prosecuting attorney to approve the affidavit. *State ex rel. Freed v. Martin Circuit Court* (1938), 214 Ind. 152, 14 N. E. (2d) 910.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment." *State ex rel. Spencer v. Marion Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

³² Acts 1816-17 (general), ch. 32, sec. 9; ch. 72, sec. 5, Rev. Laws 1824, ch. 24, sec. 10. Rev. Laws 1831, ch. 90, secs. 21, 27. Rev. Stat. 1843, ch. 13, sec. 233; ch. 14, sec. 35; ch. 15, sec. 128. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Board of County Comrs. v. Templer (1870), 34 Ind. 322.

³³ Rev. Laws 1824, ch. 86, secs. 23, 43. Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1939 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1939 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1518, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15772, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933; Burns 64-921; Baldwin 15919. Acts 1933, 1937; Burns, 1939 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16007, 16009. Board of County Comrs. v. Templer (1870), 34 Ind. 322; La-Plante v. State *ex rel. Goodman* (1899), 152 Ind. 80, 52 N. E. 452.

³⁴ Acts 1813, ch. 8, sec. 24. Acts 1816-17, ch. 8, sec. 22; ch. 17, sec. 13; ch. 19, secs. 14, 15. Acts 1817-18 (general), ch. 42, secs. 19-22; ch. 43, sec. 21; ch. 44, sec. 13. Acts 1818-19, ch. 8, sec. 2. Acts 1819-20, ch. 46, secs. 1, 2. Rev. Laws 1824, ch. 22, sec. 6; ch. 23, sec. 8; ch. 24, sec. 10; ch. 30, secs. 1-3; ch. 56, sec. 4; ch. 86, secs. 21, 23. Acts 1825, ch. 21, sec. 4. Rev. Laws 1831, ch. 10, sec. 2; ch. 81, sec. 46. Acts 1834-35 (general), ch. 18. Rev. Stat. 1838, ch. 9 (first

The prosecuting attorney prosecutes suits on forfeited recognizances,³⁵ suits to recover funds of certain decedents' estates unlawfully retained by an administrator,³⁶ suits before 1921 to recover costs of cutting hedge fences when the work was done at county expense,³⁷ suits against railroad companies to recover penalties for not graveling highway crossings,³⁸ suits to recover gambling losses,³⁹ injunction suits to prevent violation of laws concerning horse racing,⁴⁰ and injunction suits to prevent persons from engaging in business while delinquent in payment of gross income taxes.⁴¹ He acts for the state when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the state.⁴² He prosecutes bastardy proceedings,⁴³ quo warranto proceedings,⁴⁴ and cases of surety of the peace.⁴⁵ He resists undefended divorce suits⁴⁶ and applications for change of names of persons; and protects the interests of all persons of unsound mind.⁴⁷ In lunacy proceedings he repre-

act), sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 94-2508; Baldwin 15856, 15857. Wood v. State *ex rel.* Canady (1890), 125 Ind. 219, 25 N. E. 190; Wood v. Board of County Comrs. (1890), 125 Ind. 270, 25 N. E. 188.

³⁵ Acts 1816-17, ch. 5, sec. 1. Acts 1817-18 (general), ch. 4, sec. 1. Rev. Laws 1824, ch. 57, sec. 1. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. State v. Schloss (1883), 92 Ind. 293.

³⁶ Acts 1881 (Spec. Sess.); Burns 6-1605; Baldwin 3237.

³⁷ Acts 1891; Burns 30-303; Baldwin, 1935 suppl., 7648-1. Acts 1895; Burns 30-307; Baldwin 7649.

³⁸ Acts 1895; Burns 55-620; Baldwin 14119.

³⁹ 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2306. Ervin v. State *ex rel.* Walley (1897), 150 Ind. 332, 48 N. E. 249.

⁴⁰ Acts 1895; Burns 10-2711; Baldwin 9273.

⁴¹ Acts 1933, 1937; Burns, 1939 suppl., 64-2613(c); Baldwin, 1937 suppl., 15993(c).

⁴² Acts 1905; Burns 9-1045; Baldwin 2178.

⁴³ 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

⁴⁴ Acts 1819-20, ch. 74, sec. 3. Rev. Stat. 1843, ch. 48, secs. 46, 58. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 749, 750. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001, 3-2002; Baldwin 1045, 1046. Acts 1897; Burns 49-821 to 49-823, 49-831; Baldwin 13154 to 13156, 13164.

⁴⁵ Acts 1905; Burns 9-511; Baldwin 2059. Davis v. State (1894), 38 Ind. 11, 37 N. E. 397.

⁴⁶ Acts 1817-18 (general), ch. 35, sec. 3. Rev. Laws 1831, sec. 9. Rev. Stat. 1833, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913, Burns 3-1212 to 3-1215; Baldwin 916 to 919. State v. Brinneman (1889), 120 Ind. 357, 22 N. E. 332. Scott v. Scott (1861), 17 Ind. 309.

⁴⁷ Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Martin v. Matsinger (1891), 130 Ind. 555, 30 N. E. 523.

sents the person alleged to be insane.⁴⁸ He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of Indiana University.⁴⁹ On appeals from the medical examination board in license matters he represents that board.⁵⁰

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the state laws.⁵¹

The prosecuting attorney administers oaths⁵² and performs the duties of notaries public.⁵³ He collects docket fees for his services in criminal prosecutions, divorce cases, suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.⁵⁴

The state board of accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.⁵⁵

IX. COUNTY ASSESSOR

LEGAL STATUS

The office of county assessor exists under the mandatory provisions of an act of 1919, as amended in 1921. The assessor

⁴⁸ 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. Chase v. Chase (1904), 163 Ind. 178, 71 N. E. 485. Martin v. Matsinger (1891), 130 Ind. 555, 30 N. E. 523.

⁴⁹ Acts 1939; Burns, 1939 suppl., 28-5416, 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

⁵⁰ Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

⁵¹ Acts 1931, 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

⁵² Acts 1901; Burns 49-2506; Baldwin 5462. Lenciania v. State (1929), 200 Ind. 528, 164 N.

E. 271.

⁵³ Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

⁵⁴ Rev. Laws 1824, ch. 24, sec. 13; ch. 86, secs. 22, 24. Acts 1825-26, ch. 44, sec. 4. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1871, ch. 17, sec. 5. Acts 1873, ch. 48, sec. 16. Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468. Acts 1933, 1937; Burns, 1939 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2695; Baldwin 7550. *Opinions of the Attorney General of Indiana, 1938*, p. 228.

⁵⁵ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof throughout the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.¹ The assessor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.²

The assessor receives a regular salary of \$1,120 per year, plus \$2.50 for each day spent in conference with the state board of tax commissioners, together with actual railroad fare to and from the place of holding such conferences.³ For his services as appraiser of decedents' estates, the circuit court allows him compensation between \$1 and \$50 for each estate appraised, based on the value thereof.⁴ He is entitled to reimbursement for expenses when temporarily working outside Jay County under direction of the board of commissioners.⁵ He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.⁶

For sufficient legal grounds the assessor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁷ If the assessor is convicted of a felony the judgment of conviction must declare his office

¹ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

² Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

³ Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

⁴ Acts 1931, 1933, 1939; Burns, 1939 suppl., 6-2408; Baldwin, 1939 suppl., 15946.

⁵ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶ Acts 1933; Burns 49-1005; Baldwin 7535.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

vacant.⁸ For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the state board of tax commissioners after a hearing by that board. On appeal to the circuit court he may have a trial *de novo* on the charges sustained by the state board.⁹

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁰

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.¹¹ With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.¹²

From the organization of Jay County in 1836¹³ until 1841, assessors (often called listers) were appointed annually by the board doing county business, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).¹⁴ Under acts of 1824 and 1831

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹⁰ Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright* (1869), 31 Ind. 429. *Opinions of the Attorney General of Indiana, 1836*, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹¹ 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

¹² Acts 1933; Burns 49-1011; Baldwin 7541.

¹³ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

¹⁴ Acts 1807, ch. 51, sec. 11; ch. 92, sec. 1. Acts 1811, ch. 35, secs. 1, 17. Acts 1813-14, ch. 32, secs. 1-3. Acts 1816-17, ch. 19, secs. 1-6, 8, 16. Acts 1817-18 (special), ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, sec. 1. Rev. Laws 1824, ch. 15, sec. 7; ch. 86, secs. 5-7. Rev. Laws 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.

any person refusing to accept his appointment as assessor was subject to a penalty of \$25.¹⁵ An act of February 10, 1841 provided for the election of a county assessor in each county for a 2-year term.¹⁶ The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for 2-year terms.¹⁷ From 1841 to 1872 real property was assessed by appraisers appointed, from time to time as needed, by the board of commissioners.¹⁸ The elective office of county assessor (2-year term) replaced that of appraiser in 1872;¹⁹ but in 1875 the office was abolished, and the duties were transferred to township assessors elected for 2-year terms.²⁰ An act of March 6, 1891 reestablished the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for re-election until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.²¹ The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein. In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Wayne), and the duties of the office were transferred to the township trustee.²² Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

FUNCTION AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the offices of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess (after notice to the owner) all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to receive

¹⁵ Rev. Laws 1824, ch. 86, sec. 29. Rev. Laws 1831, ch. 81, sec. 4.

¹⁶ Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

¹⁸ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1
Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

²⁰ Acts 1875, ch. 97, secs. 2, 7, 9.

²¹ Acts 1891, ch. 99, sec. 112.

²² Acts 1933; Burns 64-1031; Baldwin 15664.

lists of registrations of motor vehicles and trailers from the state motor vehicle commissioner, and to check, verify, and ascertain that all motor vehicles and trailers owned by the listed registrants residing in the county are on the assessment lists of the county; to advise and instruct the township assessors; to report to the state board of tax commissioners any incompetency or neglect of duty on the part of township assessors;²³ and determine the value of taxable intangibles.²⁴ Under appointments by the circuit court, he serves as appraiser of estates in the administration of the inheritance tax law.²⁵ He appraises school property in accordance with laws concerning transfer of pupils from one school to another.²⁶ He is a member and president of the county board of review.²⁷ His work is under the direction of the state board of tax commissioners.²⁸ Formerly the county assessor made out the assessment rolls (now made by the auditor),²⁹ took a census of deaf mutes in the county (now done by township assessors),³⁰ and kept a book showing the names of all blind, dumb, deaf, and insane persons in the county.³¹

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.³²

²³ Acts 1927, 1937; Burns, 1939 suppl., 47-129; Baldwin, 1937 suppl., 11145. Acts 1919; Burns 64-1102; Baldwin 15698. *McConnell v. Hampton* (1905), 164 Ind. 547, 73 N. E. 1092. *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 22-30, 53-139.

²⁴ Acts 1933, 1935; Burns, 1939 suppl., 64-905; Baldwin, 1935 suppl., 15903. "Valuation of Intangibles," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 39-53.

²⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1931, 1933, 1939; Burns, 1939 suppl., 6-2408; Baldwin, 1939 suppl., 15946. "Inheritance Tax," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 32-39.

²⁶ Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6288.

²⁷ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁸ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

²⁹ Rev. Laws 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, secs. 14, 15. Rev. Stat. 1843, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

³⁰ Acts 1838-39 (general), ch. 41, sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

³¹ Acts 1849-50 (general), ch. 17, secs. 2, 3.

³² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

The assessor must return to the auditor, on or before the 1st Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made there-to.³³ He is not required to keep any records permanently.³⁴

179. SCHEDULE AND AFFIDAVIT FOR INHERITANCE TAX APPRAISEMENT, 1935-. 1 bdl.

Schedules of all property and affidavits of executors or administrators, trustees or heirs for inheritance tax appraisements, showing dates of schedule, decedent's death, probation of will, and letters of administration; names of decedent and affiant; location, description, and assessed valuation of real property; par and market valuation of intangibles; market valuation of chattels; interest in business or co-partnerships, trusts, and other property; recapitulation of all taxables; itemized list of claims, debts, and expenses; and amount of deduction claimed. Arr. chron. by dates of schedules. No index. Hdw. 8 x 4 x 2. Assr. off.

For other inheritance tax records, see entry 148.

X. COUNTY BOARD OF REVIEW

LEGAL STATUS

The county board of review was created by an act of 1891¹ and was reestablished by acts of 1895² and 1919. The board is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.³ An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, and must reside within the county after his appointment.⁴ Every member must take an oath that he will support the state and federal constitutions and will

³³ Acts 1919; Burns 64-1102; Baldwin 15698.

³⁴ Interview of May 18, 1939 with E. P. Brennan, state examiner.

¹ Acts 1891, ch. 99, sec. 114.

² Acts 1895, ch. 36, sec. 2.

³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁴ Const. 1851, art. 6, secs. 4, 6.

faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.⁵ The assessor and auditor, are, respectively, the president and secretary of the county board of review.⁶

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation in addition to their regular salaries for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.⁷

For sufficient legal grounds any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁸ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁹ The judge of the circuit court fills vacancies as to members appointed by him,¹⁰ Any vacancy in the office of the other members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident in such office.¹¹

Before 1891 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of the county in 1836¹² through 1838,

⁵ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷ Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

⁸ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁹ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹¹ See the essays entitled "Auditor," "County Assessor," and "Treasurer."

¹² Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

clerk of the circuit court and assessors or listers;¹³ 1839 through 1840, board of commissioners, clerk of the circuit court, and assessors or listers;¹⁴ 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);¹⁵ 1842 through 1852, board of equalization, consisting of the board of commissioners, county assessor, and auditor;¹⁶ 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors (personal property only);¹⁷ 1853 through 1871, board of equalization, made up of the board of commissioners, auditor, appraiser or appraisers (real estate only);¹⁸ 1872 through 1880, board of equalization, including the board of commissioners, county assessor, and auditor;¹⁹ and 1881 through 1890, board of equalization, consisting of the board of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge.²⁰ The board of review under the act of 1891, referred to in the first paragraph of this essay, was composed of the county assessor, auditor, and treasurer;²¹ and from 1895 to 1918 it was composed, as at present, of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.²²

In each township having a population not exceeding 5,000 (all townships except Wayne), the office of township assessor has been abolished and the duties of such office are performed by the township trustee. Reference hereinafter to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²³

¹³ Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, secs. 5, 7, 8.

¹⁴ Acts 1838-39 (general), ch. 14, secs. 5, 14, 15.

¹⁵ *Ibid.* Acts 1840-41 (general), ch. 1, secs. 9, 13.

¹⁶ Acts 1840-41 (general), ch. 1, sec. 18.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 91.

The Revised Statutes of 1852 became effective on May 6, 1853. Jones v. Cavins (1853), 4 Ind. 305.

¹⁸ 1 Rev. Stat. 1852, ch. 35, sec. 2. Jones v. Cavins (1853), 4 Ind. 305.

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

²⁰ Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

²¹ Acts 1891, ch. 99, sec. 114.

²² Acts 1895, ch. 36, sec. 2.

²³ Acts 1933; Burns 64-1031; Baldwin 15664.

FUNCTIONS AND RECORDS

Personal property is assessed each year as of March 1.²⁴ Reassessment of lands, lots, or improvements can be made only when ordered by the state board of tax commissioners— the old assessment remaining in effect until changed.²⁵ Without such order any omitted lands, lots, improvements, or personal property may be assessed by a township assessor,²⁶ the county assessor,²⁷ the auditor,²⁸ or the board of review;²⁹ and any newly platted additions to a city or town (though assessed the previous year by a different description) may be assessed by the auditor.³⁰

The county board of review hears complaints of taxpayers concerning new assessments (except those made by the state board of tax commissioners), reviews and corrects such assessments, and equalizes new property valuations. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the new assessments for the whole county or a whole taxing unit therein and to order another assessment by the county assessor and township assessors under instructions from the board.³¹ The action of the board is subject to review by the state board of tax commissioners.³² On questions of law concerning valuation of property, the decisions of the board of review and of the state board of tax commissioners may be reviewed by the circuit court; and appeal (on law and facts) may be taken from the board of review to the circuit court on the question of the property's taxability.³³

²⁴ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

²⁵ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Interview of March 29, 1940 with Philip Zoercher, chairman of the state board of tax commissioners.

²⁶ *Ibid.* Acts 1919; Burns 64-1025; Baldwin 15692.

²⁷ Acts 1919; Burns 64-1102; Baldwin 15698.

²⁸ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³⁰ Acts 1919; Burns 64-1027; Baldwin 15691.

³¹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (Indianapolis, 1940), pp. 54-57.

³² Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

³³ Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

The board of review values and assesses the franchises, privileges, and capital stock of certain classes of corporations, and reviews the assessments of the tangible property of such corporations. Reports filed by these corporations with the county assessor are examined by the board. From the findings of the board the auditor computes the corporation taxes to be placed on the tax duplicate. This action of the county board is reviewable by the state board of tax commissioners.³⁴

Sworn written statements to obtain tax exemptions of mortgaged realty and to obtain tax exemptions of realty and personalty used for educational, charitable, religious, fraternal, literary, or scientific purposes are filed with the auditor each year and are presented by him to the board of review for decision thereon. The action of the board of review is reviewable by the state board of tax commissioners.³⁵

The board of review holds an annual meeting beginning on the 1st Monday of June;³⁶ and the session can last 40 days in any year in which the state board of tax commissioners orders reassessment of any real estate in the county, and 30 days in other years. Additional time for completing this board's duties may be allowed by the state board of tax commissioners.³⁷ A majority of all the members of the board of review constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.³⁸ The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.³⁹

³⁴ Acts 1919, 1921; Burns 64-723, 64-724; Baldwin 15637, 15638.

³⁵ Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

No application for exemption is required as to property of the State of Indiana, the United States, municipal corporations, political subdivisions of the state, churches, state accredited schools, hospitals, and college fraternities and sororities. Acts 1937; Burns, 1939 suppl., 64-215; Baldwin, 1937 suppl., 15518-4.

³⁶ Acts 1919, 1920 (Spec. Sess.), Burns 64-1201; Baldwin 15700.

³⁷ Acts 1919; Burns 64-1205; Baldwin 15704. Tax rule 6 (as amended July 1, 1939) of the state board of tax commissioners.

³⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³⁹ Acts 1919; Burns 64-1204; Baldwin 15703.

180. RECORD OF COUNTY BOARD OF REVIEW, 1891-. 5 vols. (1-5).

Minutes of meetings of board of review, showing date of meeting, names of members present and persons appearing before board, subjects discussed, and actions taken. Also contains: [Board of Tax Adjustment Record], 1932-, entry 182. Arr. chron. by dates of meetings. Indexed alph. by names of persons appearing before board. 1891-July 1904, hdw.; Aug. 1904-, typed. 550 pp. 22 x 14 x 5. 4 vols., 1891-June 4, 1928, aud. vt.; 1 vol., June 5, 1928-, aud. off.

181. NOTICE TO TAXPAYER, 1930-. 11 vols.

Copies of notices to taxpayers to appear before board of review, showing date of notice, name of taxpayer, and date and place of meeting. Arr. chron. by dates of notices. No index. Hdw. 100 pp. 12 x 8 x 1. Aud. vt.

XI. COUNTY BOARD OF TAX ADJUSTMENT

LEGAL STATUS

The county board of tax adjustment was created by an act of 1932¹ and was reestablished by acts of 1933² and 1937. The board consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Portland or any public official of the city appointed by him; one member of the county board of education, selected by that board; and four persons who are citizens and freeholders of the county, appointed before April 15 each year by the judge of the circuit court, to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, must reside within the county after his appointment, and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.³

¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

² Acts 1933, ch. 237, sec. 4.

³ Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

The county board of tax adjustment elects a chairman and a vice-chairman from among its members; and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the state board of accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.⁴

For sufficient legal grounds any member of the county board of tax adjustment may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury; or verified by the oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.⁷

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment, except that in 1920 the county's tax levies were reviewable by the county council.⁸ Since 1919, with the exception of 1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the state board of tax commissioners in certain instances.⁹ Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.¹⁰

The board of tax adjustment under the act of 1932, referred to in the first paragraph of this essay, was composed of seven members, namely, the auditor, three members of the

⁴ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁸ Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1303, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁰ Toledo & W. R. Co. v. Lafayette (1864), 22 Ind. 262; First Nat. Bank v. Greger (1901), 157 Ind. 479, 62 N. E. 21. Interview of May 22, 1939 with Philip Zoercher, chairman of the state board of tax commissioners.

county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.¹¹ The board established under the act of 1933 was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.¹²

FUNCTION AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.¹³ The action of the board of tax adjustment is subject to review by the state board of tax commissioners.¹⁴

The board of tax adjustment meets on the 2d Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.¹⁵ The auditor, as clerk, keeps a complete record of the proceedings of the board.¹⁶

182. [BOARD OF TAX ADJUSTMENT RECORD], 1932-. In Record of County Board of Review, entry 180.

Minutes of meetings of board of tax adjustment, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index.

183. TAX LEVIES, 1855-. 2 f. b. (53, 110), 2 bdls.

Copies of tax levies established by the various taxing units, showing dates of filing and period covered; names of officials,

¹¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

¹² Acts 1923, ch. 237, sec. 4.

¹³ Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁴ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹⁵ Acts 1937; Burns, 1939 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁶ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

taxing unit, and funds; itemized rate for each fund; and total levy. Arr. chron. by dates of filing. For index, see entry 3. Hdw. F. b., 10 x 5 x 14; bdl., 10 x 3 x 3. 2 f. b., 1855-1935, aud. vt.; 2 bdls., 1936-, bsmt. stor. rm.

XII. BOARD OF FINANCE

LEGAL STATUS

The board of finance of Jay County was created by an act of 1907 and was reestablished by acts of 1935 and 1937. Ever since 1907 the board has been composed of the county commissioners of Jay County, with the county auditor serving as secretary.¹

The county auditor and the county commissioners receive no compensation for their services as secretary and members, respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, the auditor received \$50 per year.²

Before 1907 no county officer or board performed duties analogous to those of the board of finance.³

FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁴ It designates the banks and trust companies to serve as depositories for county funds,⁵ and for all fees and funds received by the clerk of the circuit court by virtue of his office.⁶ It may revoke the commission of any depository at any time.⁷

¹ Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1937; Burns, 1939 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

² Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. *Opinions of the Attorney General of Indiana*, 1934, p. 313; 1936, p. 130.

³ Interview of May 31, 1939 with E. P. Brennan, state examiner.

⁴ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

Defunct depositories. *Opinions of the Attorney General of Indiana*, 1939, p. 247.

⁵ Acts 1937; Burns, 1939 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁶ Acts 1937; Burns, 1939 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

⁷ Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

In the name of "The Board of Finance of Jay County," the board may sue and be sued in any action in any court of competent jurisdiction.⁸

The board of finance holds an annual meeting on the 3rd Monday in January, at which it elects its president;⁹ and holds a biennial meeting on the 3rd Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing 2-year period.¹⁰ The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.¹¹

The board keeps as permanent records the depositories' monthly statements of deposits.¹² The auditor, as secretary of the board of finance,¹³ keeps a record of its proceedings. All records of the board are subject to public inspection.¹⁴

184. BOARD OF FINANCE RECORD, 1907-. 5 vols. (1-5). Minutes of meetings of board of finance, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. Typed. 400 pp. 17 x 14 x 3. 1 vol., 1907-9, bsmt. stor. rm.; 3 vols., 1910-31, aud. vt.; 1 vol., 1932-, aud. off.

185. PUBLIC DEPOSITORY BONDS AND PROPOSALS, 1908-. 2 f. b. (44, 98).

Original documents pertaining to deposits of public funds, including:

- i. Proposals of depositories for receiving deposits of public funds, showing dates of proposal and filing, names of depository and directors, and financial statement. Arr. chron. by dates of proposals.
- ii. Surety bonds posted by depositories of public funds, showing dates of bond and filing, amount and conditions of bond, and names of depository and sureties. Arr. chron. by dates of bonds.

For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

⁸ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

⁹ *Ibid.*

¹⁰ Acts 1937; Burns, 1939 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

¹¹ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹² Acts 1937; Burns, 1939 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

¹³ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

¹⁴ Acts 1937; Burns, 1939 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

186. DEPOSITORY BOND REGISTER, 1924-26. 1 vol. Discontinued.

Record of bonds posted by depositories, showing name of depository; financial statement; date, amount, and conditions of bond; and date of expiration. Arr. chron. by dates of bonds. No index. Hdw. 500 pp. 18 x 14 x 3. Aud. vt.

187. MONTHLY REPORT OF DEPOSITORY INTEREST, 1913-. 1 f. b. (98).

Monthly statements to board of finance of county funds in depositories, showing date of statement, and daily and monthly balances. Arr. chron. by dates of reports. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

XIII. COUNTY SCHOOL FUND BOARD

LEGAL STATUS

The county school fund board exists under the mandatory provisions of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.¹ The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, must reside within the county after his appointment,² and must take an oath to support the state and federal constitutions and faithfully discharge his duties.³

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries, for their services on the county school fund board.⁴

For sufficient legal grounds any member of the county school fund board may be removed by the circuit court, after

¹ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

² Const. 1851, art. 6, secs. 4, 6.

³ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁴ 1 Rev. Stat. 1852, ch. 98, sec. 69. Acts 1853, ch. 106, sec. 5. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1936 suppl., 6558.

trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The judge of the circuit court fills the vacancy as to the member appointed by him.⁷ Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.⁸

From the organization of the county in 1836⁹ until 1853 the public seminary funds of the county were in custody of a "trustee of public seminary" appointed by the board of commissioners.¹⁰ From 1836 until 1849 loans from school funds were made by the county school commissioner, elected for a 3-year term by the voters of the county. The school commissioner was a financial agent of the county for the management of school funds and the lands belonging thereto.¹¹ In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.¹² With the approval of the township trustees, the auditor had authority to make loans until 1935.¹³ An act of March 12, 1935 (repealed on March 9, 1937) authorized the auditor, with the approval of the board of commissioners, to employ an "administrator of the school fund loans" to make investigations, collections, and recommendations under the supervision of the auditor.¹⁴

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8; Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875, Burns 49-837; Baldwin 13052. *McComas v. Krug* (1879), 81 Ind. 327 (intoxication).

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁸ See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁹ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

¹⁰ Const. 1816, art. 9, sec. 1. Acts 1817-18 (general), ch. 72, sec. 1. Rev. Laws 1824, ch. 22, secs. 2, 3. Rev. Laws 1831, ch. 20, sec. 25. Rev. Stat. 1838, ch. 21, sec. 25. Rev. Stat. 1843, ch. 14, sec. 31. 1 Rev. Stat. 1852, ch. 97.

¹¹ Acts 1828-29, ch. 84, secs. 8, 15. Rev. Laws 1831, ch. 86, secs. 6-52. Acts 1832-33, ch. 70, sec. 3. Rev. Stat. 1838, ch. 94 (2), secs. 1-16. Rev. Stat. 1843, ch. 4, secs. 11, 20; ch. 13, secs. 106-108, 193, 246, 247; ch. 15, secs. 85-87, 97.

¹² Acts 1848-49 (general), ch. 116, sec. 4. Acts 1851-52, ch. 67, secs. 1, 2. 1 Rev. Stat. 1852, ch. 98, secs. 133-137. Acts 1865, ch. 1, sec. 54.

¹³ 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

¹⁴ Acts 1935, ch. 273 (repealed by Acts 1937, ch. 153).

FUNCTIONS AND RECORDS

The school funds held in trust by the county for the purpose of making loans thereon are kept by the auditor in three accounts, to wit: The "common school fund," the "Congressional Township school fund," and the "permanent endowment fund of the Indiana University." These trust funds are loaned by the county school fund board. The county is held liable for both principal and interest. The interest on the common school fund and the Congressional Township school fund is paid into the state treasury and is distributed semi-annually among the several counties on the basis of average daily attendance of school children therein. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer, and he pays it to the trustees of Indiana University.¹⁵

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The applicant for a loan must furnish the necessary title papers and an abstract of title; must make an affidavit that the abstract is a true one and that he knows of no encumbrance; and must present a certificate from the recorder and clerk of the circuit court that there is no encumbrance on the property. A title "derived from sale for taxes" cannot be accepted. The county attorney examines the title, and appraisers (annually appointed by the board of commissioners) ascertain the value of the property. The county school fund board, after considering the reports of the county attorney and appraisers, then determines whether the title and value of the property are sufficient security for the proposed loan.¹⁶ Not more than \$4,000 can be loaned to any one person

¹⁵ Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101, 28-104, 28-105; Baldwin 6499, 6499-1, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1932 (Spec. Sess.); 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. State *ex rel.* Hoard (1885), 103 Ind. 497, 3 N. E. 165; Board of County Comrs. v. State *ex rel.* Baldwin (1888), 116 Ind. 329, 19 N. E. 173; Board of County Comrs. v. State *ex rel.* Michener (1889), 120 Ind. 442, 22 N. E. 339; Board of County Comrs. v. State *ex rel.* Michener (1890), 122 Ind. 333, 24 N. E. 347; State *ex rel.* Michener v. Board of County Comrs. (1892), 5 Ind. App. 220, 32 N. E. 92.

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower (1902), 159 Ind. 139, 64 N. E. 614.

The sources of the fund held in trust for school purposes are discussed under the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

¹⁶ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558. Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580. Acts 1865, 1885 (Spec. Sess.); Burns 28-211 to 28-213; Baldwin 6562, 6559, 6560.

or company,¹⁷ and the amount loaned cannot exceed one-half of the last assessed valuation of the property for taxes.¹⁸ The interest rate on such loans (except those made to the county) is 5 percent per annum.¹⁹ Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,²⁰ and the rate of interest thereon is 6 percent per annum.²¹

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional Township school fund, and, if the latter, the particular township or townships whose trust funds are loaned.²² The auditor must immediately deliver the mortgage to the recorder for recording, and must deduct from the loan the amount of the recording fee.²³ Payments on these loans are made to the treasurer; and his receipt is filed with the auditor, who gives the payer a quietus therefor.²⁴ The auditor may accept, at face value, bonds of the Home Owners Loan Corporation or Federal Farm Mortgage Corporation (agencies of the United States) in payment of these loans.²⁵ The auditor forecloses or otherwise enforces the defaulted mortgages.²⁶ Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.²⁷

¹⁷ Acts 1901; Burns 28-220; Baldwin 6564.

¹⁸ Acts 1901, 1903, 1923; Burns 28-221; Baldwin 6565.

¹⁹ Acts 1933; Burns 28-215; Baldwin 6574.

²⁰ Acts 1901; Burns 28-201, 28-202; Baldwin 6563, 6569.

²¹ Acts 1901; Burns 28-204; Baldwin 6571.

²² Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

²³ Acts 1865; Burns 28-233; Baldwin 6583.

²⁴ Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

²⁵ Acts 1935; Burns, 1939 suppl., 28-268; Baldwin, 1935 suppl., 6572-1.

²⁶ Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1855, ch. 86, sec. 86. Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 6597, 6599 to 6601, 6594. Webb v. Moore (1865), 25 Ind. 4; Key v. Ostrander (1867), 29 Ind. 1; Bonnell v. Ray (1880), 71 Ind. 141; Willson v. Brown (1882), 82 Ind. 471; Benefiel v. Aughe (1884), 93 Ind. 401; Shannon v. Hay (1886), 106 Ind. 589, 7 N. E. 376; Windstandley v. Crim (1889), 117 Ind. 328, 20 N. E. 833; Haynes v. Cox (1889), 118 Ind. 184, 20 N. E. 758; Work v. State *ex rel.* Holland (1889), 120 Ind. 119, 22 N. E. 127; State *ex rel.* Longfellow v. Wimer (1906), 166 Ind. 530, 77 N. E. 1078.

²⁷ Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608.

Whenever more than \$5,000 of the principal of any one of these funds remains unloaned in the county for 6 months, the county auditor must notify the auditor of state, and the unloaned moneys may be transferred to another county.²⁸

The auditor and treasurer make annual reports to the board of commissioners showing the condition and activity of these school funds. The board of commissioners examines the reports, makes a written report of such examination, enters it of record, and transmits copies (signed by the auditor, treasurer, and county commissioners) to the state superintendent of public instruction and the auditor of state.²⁹ Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each Congressional Township a sufficient number of mortgages to cover the principal of its Congressional Township school fund.³⁰ A "miscellaneous school fund account" with the Congressional Township school fund may be kept by the auditor to enable him to aggregate small sums of available trust funds to be used for one loan. In his reports he shows fully the distribution of all school funds.³¹

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.³² The record entries for loans to counties are similar to those made for loans to private individuals.³³ Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.³⁴

187A. [SCHOOL FUND MORTGAGES], 1910-. 16 pigeon holes. Documents filed to secure school fund loans, including:

- i. Mortgages, showing same information as in entry 79.

²⁸ Acts 1901; Burns 28-206; Baldwin 6573.

²⁹ Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

³⁰ Acts 1865; Burns 28-263; Baldwin 6615.

³¹ Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

³² Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

³³ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

³⁴ Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. Board of County Comrs. v. Leslie (1878), 63 Ind. 492.

- ii. Abstracts of title to property mortgaged to secure school fund loans, showing dates of abstract and filing; names of property owner and abstractor; location and description of property; continuous ownership from U. S. Government grant to date of loan; and all deeds, mortgages, and liens.
 - iii. Insurance policies covering insurance on property mortgaged to secure school fund loans, showing policy number, dates of policy and expiration, names of insurance company and property owner, amounts of insurance and premium, location and description of property, and conditions of policy.
- Arr. alph. by names of mortgagors. No index. Typed. 6 x 4 x 10. Aud. off.

XIV. TREASURER

LEGAL STATUS

The office of treasurer was created by an act of 1831; was reestablished by acts of 1838, 1841, 1843, and the Constitution of 1851; and has existed in Jay County since 1836. The treasurer is elected for a 2-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 4 years in any 6-year period.⁴ The treasurer must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post an official bond, to be approved by the board of commissioners

¹ Const. 1851, art. 6, sec. 2. *Gemmer v. State ex rel. Stephens* (1904), 163 Ind. 150, 71 N. E. 478. See footnotes 21-26 herein.

² Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State* (1867), 27 Ind. 491.

and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands at any time during his term, as determined by the board.⁸ The treasurer must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁹

The treasurer receives a regular salary of \$1,920 per year. In addition to his salary, he receives, as compensation for himself, 6 percent of all delinquent personal property taxes collected by him, plus a "demand fee" of 50 cents on each collection resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as a member of the board of review of Jay County.¹⁰

For sufficient legal grounds the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If the treasurer is convicted of a felony the judgment of conviction must declare his office vacant.¹² If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be

⁸ Acts 1816-17, ch. 17, sec. 2. Acts 1817-18 (general), ch. 44, sec. 2. Rev. Laws 1824, ch. 23, sec. 1; ch. 86, secs. 18, 27. Rev. Laws 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey* (1864), 22 Ind. 399.

⁹ Const. 1851, art. 15, sec. 4. Rev. Laws 1824, ch. 86, sec. 18. Rev. Laws 1831, ch. 81, sec. 17. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Acts 1816-17, ch. 17, sec. 12. Acts 1817-18 (general), ch. 44, sec. 12. Rev. Laws 1824, ch. 23, sec. 7; ch. 86, sec. 34. Rev. Laws 1831, ch. 21, sec. 5; ch. 81, sec. 40. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1871, ch. 17, secs. 29, 30. Acts 1933; Burns 49-1001, 49-1004, 49-1016; Baldwin 7531, 7534, 7546. Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles* (1905), 164 Ind. 690, 74 N. E. 508. *Opinions of the Attorney General of Indiana*, 1934, p. 313; 1936, p. 130.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. Laws 1824, ch. 23, sec. 2. Rev. Laws 1831, ch. 21, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

removed from office by the board of commissioners,¹³ but such removal is subject to review by the circuit court.¹⁴

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

The treasurer may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.¹⁶ The treasurer may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.¹⁷ The treasurer may require the deputy to give bond.¹⁸ The deputy must take the oath required of the treasurer, may perform all the official duties of the treasurer, and is subject to the same regulations and penalties.¹⁹ The treasurer may remove such deputy and assistants at any time, and is responsible for their official acts.²⁰

From the organization of Jay County in 1836²¹ until 1841 a county treasurer was annually appointed by the board of commissioners.²² He received and disbursed county funds;

¹³ Rev. Stat. 1843, ch. 7, sec. 37. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁴ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

¹⁵ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. Laws 1824, ch. 86, sec. 30. Rev. Laws 1831, ch. 81, sec. 37. Rev. Stat. 1843, ch. 4, secs. 136, 139, 160, 162, 163, 168, 169; ch. 7, secs. 74, 87. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright* (1869), 31, Ind. 429; *Beale v. State ex rel. Gray* (1874), 49 Ind. 41; *Weaver v. State ex rel. Sims* (1899), 152 Ind. 479, 53 N. E. 450. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁶ Rev. Laws 1831, ch. 81, secs. 17, 37. Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁷ Acts 1933, 1937; Burns, 1939 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

¹⁸ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁹ Rev. Stat. 1843, ch. 4, sec. 85. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Lucas v. Shepherd* (1861), 16 Ind. 368.

²⁰ Rev. Stat. 1843, ch. 7, sec. 88; ch. 12, secs. 82, 153. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²¹ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

²² Acts 1816-17, ch. 17, secs. 1, 2. Acts 1817-18 (general), ch. 44, secs. 1, 2. Rev. Laws 1824, ch. 23, sec. 1. Rev. Laws 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1.

received taxes collected by the tax collector; collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate account of receipts from fines, to be used to support county seminaries; and made annual settlements with the board.²³ From 1836 until 1841 a county tax collector was appointed annually by the board.²⁴ The tax collector collected taxes (other than the license fees aforesaid); conducted tax sales; issued tax sale certificates and tax deeds; paid all collected funds over to the county treasurer and state treasurer; filed with the clerk of the circuit court a report concerning the sale of lands for delinquent taxes; and made and delivered to the clerk an alphabetical list of all white male persons of the age of 21 years residing in the county.²⁵ In 1841 the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851, the treasurer was elected for a 3-year term by the voters of the county.²⁶

FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. He countersigns each warrant and stamps thereon the name of the depository by which it is payable. He may pay a warrant out of funds in his office or require it to be presented to the depository for payment.²⁷

²³ Acts 1816-17, ch. 8, sec. 22; ch. 10, sec. 13; ch. 17, secs. 1-11; ch. 19, secs. 7, 13, 15; ch. 23, sec. 5; ch. 27, sec. 1; ch. 69, sec. 23. Acts 1817-18 (special), ch. 2, sec. 1; ch. 4, sec. 1; ch. 36, sec. 2. Acts 1817-18 (general), ch. 4, sec. 3; ch. 13, sec. 30; ch. 14, secs. 4, 25; ch. 32, sec. 9; ch. 42, secs. 3, 12, 14, 18, 22, 23, 25; ch. 43, sec. 21; ch. 44, secs. 1-11; ch. 47, sec. 2; ch. 62, secs. 2, 3; ch. 72, sec. 2; ch. 77, sec. 5; ch. 79, sec. 1. Rev. Laws 1824, ch. 23, secs. 1-10; ch. 86, secs. 24, 25, 32, 36, 37. Rev. Laws 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 38, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17; ch. 22.

²⁴ Rev. Laws 1824, ch. 86, secs. 18, 42. Rev. Laws 1831, ch. 81, secs. 17, 18.

²⁵ Rev. Laws 1824, ch. 23, secs. 6, 8, 11, 13; ch. 86, secs. 11-16, 19-28, 32, 34-37, 39-41, 45. Acts 1825, ch. 9, sec. 1. Acts 1829-30, ch. 9, sec. 5. Rev. Laws 1831, ch. 20, secs. 15, 18, 19; ch. 21, secs. 2-4, 10; ch. 81, secs. 14, 17-46, 51. Rev. Stat. 1838, ch. 81, secs. 18, 19.

²⁶ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-180. *Ham v. State ex rel. Williams* (1844), 7 Blackford 344.

²⁷ Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. *State ex rel. Zable v. Benson* (1880), 70 Ind. 481.

He must deduct any delinquent taxes owing by the payee.²⁸ If no funds are available to pay a warrant when presented for payment, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment. When funds become available he publishes a call for redemption of such warrants.²⁹

The treasurer collects property taxes and poll taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor;³⁰ reports omitted polls and property to the auditor for assessment;³¹ keeps an "insolvent record" of dropped taxes (prepared by the auditor);³² keeps auditor's certificates correcting the tax duplicate;³³ sells real estate and personal property at public auction for delinquent taxes;³⁴ collects corporate taxes,³⁵ inheritance taxes,³⁶ and the excise tax on shares of stock and deposits of banks, trust companies, and loan associations;³⁷ sells intangible tax stamps for the state board of tax commissioners;³⁸ and collects school fund loans³⁹ and special assessments for public improvements.⁴⁰ Records of these funds and transactions are kept by him.

²⁸ Acts 1919; Burns 64-1506; Baldwin 15768.

²⁹ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

³⁰ Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 53-55, 62, 67, 174. Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 15745, 15748. Standard Oil Co. v. Bretz (1884), 98 Ind. 231.

³¹ Acts 1919; Burns 64-2102; Baldwin 15803.

³² Acts 1919; Burns 64-2801; Baldwin 15684.

³³ Acts 1919, 1925; Burns 64-1407; Baldwin 15744.

³⁴ Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks (1877), 56 Ind. 554.

³⁵ Acts 1919; Burns 64-1801; Baldwin 15783.

³⁶ Acts 1931; Burns 6-2413; Baldwin 15951.

³⁷ Acts 1933; Burns 64-804, 64-807, 64-810; 64-827; Baldwin 15585, 15588, 15591, 15608.

³⁸ Acts 1933; Burns 64-927; Baldwin 15925.

³⁹ Acts 1865; Burns 28-235; Baldwin 6592.

⁴⁰ Drainage. Acts 1933; Burns 27-134; Baldwin 5770.

Levees. Acts 1907, 1927, 1933; Burns 27-805; Baldwin 10214.

Roads. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1439, 36-1440; Baldwin

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the board of finance. The treasurer makes monthly reports to the board of finance showing the balance of funds at the end of the previous month—consistent with the statements furnished to the board and treasurer by the depository;⁴¹ makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;⁴² makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;⁴³ makes annual settlements with the board of commissioners in January;⁴⁴ makes semiannual settlements for taxes with the county auditor in May and November,⁴⁵ and in accordance therewith pays to the state treasurer in June and December all money due for state purposes;⁴⁶ and also makes payments to the state treasurer at other times in accordance with official requests therefor.⁴⁷ He makes quarterly reports to the auditor showing specifically the amount of fees collected;⁴⁸ and deposits quarterly with the auditor all redeemed warrants.⁴⁹

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.⁵⁰ He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily,

⁴¹ Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1939 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁴² Acts 1871, ch. 17, secs. 23, 31, 38. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578. *Wolfe v. State ex rel. Kennard* (1883), 90 Ind. 16.

⁴³ Acts 1871, ch. 17, sec. 31. Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁴ Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁴⁵ Rev. Stat. 1843, ch. 12, secs. 68, 154. Acts 1919; Burns 64-2501; Baldwin 15850.

⁴⁶ Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

⁴⁷ Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

⁴⁸ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁴⁹ Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

⁵⁰ Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 5553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

show funds on hand at the close of each day, and be open to public inspection.⁵¹ He keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.⁵²

Forms for the following record books have been prescribed for county treasurers by the state board of accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.⁵³

The county treasurer is a member of the board of review, which meets annually for the purpose of reviewing property tax valuations and allowing tax exemptions.⁵⁴

TAX COLLECTIONS

PERSONAL AND REAL PROPERTY

188. TAX DUPLICATE AND DELINQUENT LIST, 1877-. 344 vols. (labeled by years).

Record compiled by auditor of taxes payable and amounts returned delinquent, showing duplicate number; names of taxing unit and property owner; location, description, and assessed valuation of property; amounts of real, personal, poll taxes, special assessments, and exemptions; and amounts paid and returned delinquent. This is a combination of two records formerly kept separately: Tax Duplicate, 1843-76, entry 189; Delinquent List, 1853, 1862, 1866, 1872-76, entry 197. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 1877-1909, 400 pp. 12 x 24 x 2; 1910-, 100 pp. 17 x 27 x 2. 252 vols., 1877-1925, bsmt. stor. rm.; 43 vols., 1926-34, 1936, treas. vt.; 49 vols., 1932-, treas. off.

189. TAX DUPLICATE, 1843-76. 37 vols. (labeled by years). 1877- in Tax Duplicate and Delinquent List, entry 188.

Record compiled by auditor of taxes payable, showing duplicate number; names of taxing unit and property owner; location, description, and assessed valuation of property; amounts of

⁵¹ Acts 1937; Burns, 1939 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁵² Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

⁵³ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

⁵⁴ See the essay entitled "County Board of Review."

real, personal, and poll taxes, special assessments, and exemptions; and amounts paid. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 400 pp. 12 x 24 x 3. 1 vol., 1843, treas. vt.; 36 vols., 1844-76, bsmt. stor. rm.

190. REGISTER OF TAXES COLLECTED, 1874-. 66 vols. (thirty-six vols. not labeled, 3-7, and twenty-five vols. not labeled). 1839-71 in Ledger of Receipts and Disbursements, entry 204.

Record of taxes collected, showing date, number, and amount of receipt; names of taxing unit and taxpayer; and kind of tax. Also contains: Register of Receipts of Delinquent Taxes, entry 200. Arr. by taxing units, thereunder chron. by dates of receipts. No index. Hdw. 500 pp. 18 x 14 x 4. 62 vols., 1874-Apr. 1921, 1925-, treas. vt.; 4 vols., May 1921-24, bsmt. stor. rm.

191. TAX RECEIPTS, 1919-. 1190 vols. (labeled by years). Duplicate receipts issued for tax payments, showing names of taxpayer and taxing unit; location, description, and assessed valuation of property; dates of receipt and payment; amount of payment; receipt number; and number of polls. Arr. by taxing units, thereunder num. by receipt nos. No index. Hdw. 100 pp. 3 x 9 x 1½. 539 vols., 1919-25, bsmt. stor. rm.; 651 vols., 1926-, treas. off.

PUBLIC IMPROVEMENTS (see also entries 22-27, 243-246, 323-328)

192. DITCH TAX DUPLICATE, 1892-. 5 vols. (three vols. not labeled, 1, 2).

Record of assessments for construction and maintenance of ditches, showing dates of assessment and payment; receipt numbers; names of landowner and ditch; description and location of property; and amounts of assessment, interest, penalty, and payment. Arr. by names of ditches, thereunder alph. by names of landowners. No index. Hdw. 80 pp. 17 x 15 x 1. 1 vol., 1892-1905, treas. vt.; 4 vols., 1906-, treas. off.

193. GRAVEL ROAD TAX DUPLICATE, 1877-84, 1890-1909. 25 vols.

Record of assessments for construction and maintenance of gravel roads, showing names of road and landowner; dates of assessment and payment; location and description of land; and amounts of assessment, penalty, interest, and payment. Arr. by names of roads, thereunder chron. by dates of assessments. No index. Hdw. 80 pp. 17 x 15 x 1. 8 vols., 1877-79, 1885-89, bsmt. stor. rm.; 17 vols., 1880-84, 1890-1909, treas. vt.

194. RECEIPTS, GRAVEL ROADS AND DITCHES, 1908-21. 1 vol. (1).

Record of tax collections for redemption of bonds, showing date, amount, nature, and number of receipt; and name of payee. Arr. num. by receipt nos. No index. Hdw. 70 pp. 18 x 22 x 2. Treas. vt.

195. REGISTER OF ROAD RECEIPTS, 1883-1910. 7 vols. 1839-32, 1924- in Ledger of Receipts and Disbursements, entry 204; 1911-23 in Record of Receipts, entry 205.

Record of road tax receipts, showing date, number, and amount of receipt; and names of taxing unit and payer. Arr. by taxing units, thereunder chron. by dates of receipts. No index. Hdw. 400 pp. 16 x 12 x 2. Treas. vt.

INTANGIBLES

196. [RECORD OF RECEIPT AND SALE OF INTANGIBLE TAX STAMPS], 1933-. 1 vol.

Daily inventory of intangible tax stamps, showing dates of receipt and sale; consignment number; quantity by denominations; and amount received, sold, and on hand. Arr. chron. by dates of sales. No index. Hdw. 100 pp. 18 x 16 x 1. Treas. vt.

DELINQUENTS

197. DELINQUENT LIST, 1853, 1862, 1866, 1869, 1872-76. 9 vols. (labeled by years). 1877- in Tax Duplicate and Delinquent List, entry 188.

Record of delinquent taxes, showing duplicate number; names of taxing unit and property owner; location, description, and assessed valuation of property; and amounts of delinquency, penalty, and interest. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 400 pp. 18 x 12 x 3. Bsmt. stor. rm.

198. INSOLVENT RECORD, 1863-72, 1885-. 3 vols. (two vols. not labeled, 3).

Record of delinquent poll and personal taxes considered uncollectable, showing date and amount of delinquency, names of taxpayer and taxing unit, number of polls, assessed valuation of property, and reason for removal. Arr. by taxing units, thereunder alph. by names of taxpayers. No index. Hdw. 500 pp. 18 x 12 x 3. 1 vol., 1863-72, bsmt. stor. rm.; 1 vol., 1885-1903, treas. vt.; 1 vol., 1904-, treas. off.

199. COLLECTION REGISTER [DELINQUENT TAX], 1862-85. 196 vols. Discontinued.

Record of delinquent taxes and collections thereon, showing

names of taxing unit and property owner; location, description, and assessed valuation of property; and amount of delinquency. Arr. alph. by names of property owners. No index. Hdw. 50 pp. 15 x 10 x $\frac{1}{4}$. Bsmt. stor. rm.

200. REGISTER OF RECEIPTS OF DELINQUENT TAXES, 1860-73.
2 vols. 1874- in Register of Taxes Collected,
entry 190.

Record of delinquent tax payments, showing date and amount of receipt; and names of taxing unit, payer, and fund. Arr. by taxing units, thereunder chron. by dates of receipts. No index. Hdw. 600 pp. 18 x 12 x $2\frac{1}{2}$. Treas. vt.

RECEIPTS AND DISBURSEMENTS

GENERAL FUND

201. TREASURERS DAILY BALANCE RECORD, 1908-. 30 vols.
(1, 2, 2-7, and twenty-two vols. not labeled).

Record of daily cash and depository balances, showing date of balance; name and address of depository; amounts of prior and current cash and depository balances, receipts, disbursements, deposits, and withdrawals; source and nature of receipt; nature of disbursement; and total receipts, disbursements, deposits, and withdrawals. Arr. chron. by dates of balances. No index. Hdw. 300 pp. 18 x 12 x 2. Treas. vt.

202. RECORD OF MONTHLY BALANCES, June 1894-1907, 1911-.
4 vols. (one vol. not labeled, 2, 1, 2). Title
varies: Balance Book, June 1894-1907, 2 vols.
1881-May 1894 in Ledger of Receipts and Disburse-
ments, entry 204.

Record of monthly balances of county funds, showing date of balance; amounts of receipts, disbursements, and previous and closing balances; and name of fund. Also contains: Road Balance Book, 1894-1907, 1921-, entry 203. Arr. chron. by dates of balances. No index. Hdw. 50 pp. 18 x 23 x $\frac{1}{2}$. Treas. vt.

203. ROAD BALANCE BOOK, 1908-20. 2 vols. 1894-1907 in
Record of Monthly Balances, entry 202.

Record of monthly balances of road funds, showing date of balance, name of road, amounts of receipts and disbursements, and balance or overdraft. Arr. chron. by dates of balances. No index. Hdw. 100 pp. 10 x 30 x 2. 1 vol., 1908-14, treas. off.; 1 vol., 1915-20, bsmt. stor. rm.

204. LEDGER OF RECEIPTS AND DISBURSEMENTS, 1839-94, 1924-. 9 vols., 2 cartons, 1 bdl. Title varies: Ledger, 1839-42, 1 vol.; Journal, 1843-71, 2 vols.; Receipts and Disbursements, 1872-94, 4 vols.

Record of receipts and disbursements of county revenue, showing date, number, and amount of receipt and warrant, names of payer, payee, and fund; and balance or overdraft. This is a combination of two records inter-currently kept separately: Record of Receipts, 1895-1923, entry 205; Cash Book of Disbursements, 1895-1923, entry 206. Also contains: Register of Taxes Collected, 1839-71, entry 190; Register of Road Receipts, 1839-82, 1924-, entry 195; Record of Monthly Balances, 1881-May 1894, entry 202; Treasurer's Cash Book of All Receipts Other Than Tax Payments, June 1924-, entry 207; Disbursements, Gravel Roads, entry 210; Record of Receipts [School Funds], entry 211; Register of Principal and Interest, entry 212. Arr. by names of funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 400 pp. 18 x 16 x 4. 1 vol., 1839-42, bsmt. stor. rm.; 8 vols., 2 cartons, 1 bdl., 1843-94, 1924-, treas. vt.

205. RECORD OF RECEIPTS, 1895-1923. 6 vols. (1, 2, one vol. not labeled, 4, 1, 2). 1839-94, 1924- in Ledger of Receipts and Disbursements, entry 204.

Record of receipts of county revenue, showing date, number, and amount of receipt; and names of payer and fund. Also contains: Register of Road Receipts, 1911-23, entry 195. Arr. chron. by dates of receipts. No index. Hdw. 400 pp. 18 x 16 x 4. 1 vol., Oct. 1908-Mar. 1911, bsmt. stor. rm.; 5 vols., 1895-Sept. 1908, Apr. 1911-23, treas. vt.

206. CASH BOOK OF DISBURSEMENTS, 1895-1923. 10 vols. (1, 2, four vols. not labeled, 1-4). Title varies: Disbursement Record, 1893-1900, 2 vols.; Receipts and Disbursements, 1901-Mar. 1906, 2 vols.; Record of Disbursements, Apr. 1906-10, 2 vols. 1839-94, 1924- in Ledger of Receipts and Disbursements, entry 204.

Record of disbursements of county revenue, showing date, number, and amount of warrant; and names of payee and fund. Also contains: Disbursements, Gravel Roads, 1895-1907, entry 210. Arr. chron. by dates of disbursements. No index. Hdw. 400 pp. 18 x 16 x 4. Treas. vt.

207. TREASURER'S CASH BOOK OF ALL RECEIPTS OTHER THAN TAX PAYMENTS, 1842-May 1924. 4 vols. (two vols. not labeled, 1, 2). June 1924- in Ledger of Receipts and Disbursements, entry 204.

Record of receipts other than taxes, showing date, number,

and amount of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 240 pp. 16 x 12 x 2. Treas. vt.

208. REGISTER OF WARRANTS BY DEPOSITORIES, 1842-81, 1888-99, 1908-. 20 vols. (two vols. not labeled, 3, 4, one vol. not labeled, 1-3, twelve vols. not labeled). Title varies: Register of Orders, 1842-81, 1888-99, 5 vols.; Depository Record, 1908-Jan. 1913, 2 vols.; Deposits and Withdrawals, Public Funds, Feb. 1913-Mar. 1928, 8 vols.

Record of warrants drawn on depositories, showing dates of warrant and cancellation, number and amount of warrant, names of depository and fund, and total amount drawn on each depository. Arr. num. by warrant nos. No index. Hdw. 320 pp. 17 x 16 x 3. Treas. vt.

209. [MISCELLANEOUS DOCUMENTS], 1920-. 13 cartons, 1 bdl. Miscellaneous documents of receipts and disbursements, including:

- i. Applications to pay, showing date, number, and amount of application, and names of payer and fund.
- ii. Copies of certificates of distribution, showing date and amount of certificate, warrant number, and names of payee and taxing unit.
- iii. Copies of warrants drawn on depositories, showing date, number, nature and amount of warrant; names of payee and depository; and appropriation number.
- iv. Copies of warrants drawn on depositories for payment of old-age pensions 1933-, showing same information as in paragraph iii.
- v. Copies of deposit slips, showing date and amount of deposit, and name of depository.

Arr. chron. by dates of documents. No index. Typed. 10 x 22 x 24. Treas. vt.

ROAD FUNDS

210. DISBURSEMENTS, GRAVEL ROADS, 1908-28. 2 vols. (1, 2). 1895-1907 in Cash Book of Disbursements, entry 206; 1924- in Ledger of Receipts and Disbursements, entry 204.

Record of expenditures for construction and maintenance of gravel roads, showing date, nature, number, and amount of order; and names of payee and road. Arr. num. by order nos. No index. Hdw. 150 pp. 18 x 24 x 3. Treas. vt.

SCHOOL FUNDS (see also entries 261-269)

211. REGISTER OF RECEIPTS [School Funds], 1842-1923. 6 vols. (four vols. not labeled, 2, 3). 1924- in Ledger of Receipts and Disbursements, entry 204. Record of receipts and disbursements of school funds, showing dates and amounts of receipt and disbursement; receipt number; and names of payer, payee, and fund. Also contains: Register of Principal and Interest, 1842-61, Apr. 1881-87, entry 212. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 16 x 11 x 1½. 1 vol., 1842-May 1853, bsmt. stor. rm.; 5 vols., June 1853-1923, treas. vt.

212. REGISTER OF PRINCIPAL AND INTEREST, 1862-May 1871, 1888-1923. 4 vols. (three vols. not labeled, 2). Title varies: Journal School Fund, 1862-71, 1 vol. 1842-61, Apr. 1881-87 in Register of Receipts [School Funds], entry 211; 1924- in Ledger of Receipts and Disbursements, entry 204.

Record of receipts and disbursements of school fund principal and interest, showing date, number, and amount of mortgage; names of mortgagor and fund; dates and amounts of payments of interest installments; and date of satisfaction. This is a combination of two records intercurrently kept separately: Receipts and Disbursements of School Fund Principal, June 1871-Mar. 1881, entry 213; Receipts and Disbursements, School Fund Interest, June 1871-Mar. 1881, entry 214. Arr. num. by mortgage nos. 1862-May 1871, no index; 1888-1923, indexed alph. by names of mortgagors. Hdw. 100 pp. 16 x 12 x 1. Treas. vt.

213. RECEIPTS AND DISBURSEMENTS OF SCHOOL FUND PRINCIPAL, June 1871-Mar. 1881. 1 vol. (1). 1862-May 1871, 1888-1923 in Register of Principal and Interest, entry 212.

Record of receipts and disbursements of school fund principal, showing dates and amounts of receipt and disbursement; receipt and order numbers; and names of payer, payee, and fund. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 150 pp. 17 x 15 x 1½. Treas. vt.

214. RECEIPTS AND DISBURSEMENTS, SCHOOL FUND INTEREST, June 1871-Mar. 1881. 1 vol. (1). 1862-May 1871, 1888-1923 in Register of Principal and Interest, entry 212.

Record of receipts and disbursements of school fund interest, showing dates and amounts of receipt and disbursement; receipt and order numbers; and names of payer, payee, and fund. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 150 pp. 17 x 15 x 1½. Treas. vt.

XV. AUDITOR

LEGAL STATUS

The office of auditor was created by an act of 1841, was reestablished by the Constitution of 1851, and has existed in Jay County since 1841. The auditor is elected for a 4-year term by the voters of the county. Before 1851 he was elected for a 5-year term.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴ The auditor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office, and must not practice law.⁶ He must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The auditor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁸

The auditor receives a regular salary of \$2,240 per year.⁹ In addition to his regular salary he receives \$75 per year for services rendered for the city of Portland; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Jay County; and from 1919 until 1933 he also received \$5 per day for each day

¹ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Jones v. Cavins* (1853), 4 Ind. 305.

² Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Griebel v. State ex rel. Niezer* (1887), 111 Ind. 369, 12 N. E. 700.

⁴ Const. 1851, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, sec. 4. *State ex rel. Jeffries v. Kilroy* (1882), 86 Ind. 118.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *State v. Allen* (1863), 21 Ind. 516; *Wells v. State ex rel. Peden* (1911), 175 Ind. 380, 94 N. E. 321.

⁷ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104; 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1871, ch. 17, sec. 28. Acts 1933; Burns 49-1004; Baldwin 7534.

actually served as a member of the county board of review.¹⁰ He is not entitled to retain, as compensation for himself, any fees collected by him.¹¹

For sufficient legal grounds the auditor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.¹³

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-number years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁴

The auditor may appoint one deputy and one or more assistants under authority from the board of commissioners. The county council fixes their salaries, which must be not less than \$75 nor more than \$125 per month.¹⁵ The auditor may require the deputy to give bond.¹⁶ The deputy must take

¹⁰ Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1231, 49-1001, 49-1004; Baldwin 11412, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. Board of County Comrs. v. Johnson (1891), 127 Ind. 238, 26 N. E. 821; Tucker v. State *ex rel.* Board of County Comrs. (1904), 163 Ind. 403, 71 N. E. 140; Board of County Comrs. v. Crowe (1938), 214 Ind. 437, 466 (two cases), 14 N. E. (2d) 903, 907, 15 N. E. (2d) 1016. *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1936*, p. 130.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535. Workman v. State *ex rel.* Board of County Comrs. (1905), 165 Ind. 42, 73 N. E. 917.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Douglass v. State *ex rel.* Wright (1869), 31 Ind. 429. *Opinions of the Attorney General of Indiana, 1936*, p. 9. Interview of July 11, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

the oath required of the auditor, may perform all the official duties of the auditor, and is subject to the same regulations and penalties.¹⁷ The auditor may remove such deputy and assistants at any time and is responsible for their official acts.¹⁸

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,¹⁹ and included the clerk's previous duties as clerk of the board of commissioners,²⁰ as member of the boards performing duties similar to those of the present county board of review,²¹ and duties concerning elections,²² taxation, finance, county business,²³ and selection of petit jurors and grand jurors.²⁴

From 1836 to 1852 Jay County had a county agent, appointed by the board of commissioners. He performed various duties concerning county business, as required by the board, including the collection of donations for the county, purchase of land, equipment, and supplies, the sale of county property and collection of the purchase price thereof, and the making of contracts for public improvements. Originally he was appointed for an indefinite term. From 1843 until 1852 he was appointed for a 3-year term. In 1852 his office was abolished and his duties were transferred to the auditor.²⁵

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1939 suppl., 59-1002; Baldwin, 1937 suppl., 7532.

¹⁹ Jones v. Cavins (1853), 4 Ind. 305.

²⁰ Acts 1816-17, ch. 15, sec. 6. Rev. Laws 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. Laws 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

²¹ Acts 1817-18 (general), ch. 42, sec. 12. Rev. Laws 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. Laws 1831, ch. 81, 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15.

²² Acts 1816-17, ch. 9, secs. 12-14, 16, 19; ch. 14, sec. 4. Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

²³ Acts 1815, ch. 5, secs. 5, 13, 17; ch. 10, secs. 1-3. Rev. Laws 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 29, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

²⁴ Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

²⁵ Acts 1817-18 (special), ch. 1, sec. 2; ch. 2, sec. 1. Rev. Laws 1824, ch. 93, secs. 1, 2, 4, 6, 8, 9. Acts 1841-42 (general), ch. 67, sec. 2. Rev. Stat. 1843, ch. 4, sec. 48. Acts 1851-52, ch. 2.

FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and the routine administration of county affairs centers in his office, through which all financial transactions are conducted.

The auditor is clerk of the board of commissioners,²⁶ the county council,²⁷ and the county board of tax adjustment;²⁸ and he is secretary of the board of finance.²⁹ He is also a member and secretary of the county board of review,³⁰ and a member of the county school fund board.³¹ From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.³² Formerly the auditor was a member of the election board under the local option liquor laws,³³ and was clerk of the old-age pension board.³⁴ The auditor keeps a record of all the boards of which he is clerk or secretary.

Copies of reports to the state board of accounts by its field examiners showing the results of their examinations of county offices are filed with the auditor.³⁵ Annually the auditor reports to the state examiner the financial condition of the county and the school funds charged to it.³⁶

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report to the auditor showing the total amount of cash payments received by the treasurer during the

²⁶ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

²⁷ Acts 1899; Burns 26-509; Baldwin 5373.

²⁸ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

²⁹ Acts 1937; Burns, 1939 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

³⁰ Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³¹ Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558.

³² Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

³³ Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. Kunkle v. Coleman (1910), 174 Ind. 315, 92 N. E. 61.

³⁴ Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

³⁵ Acts 1909; Burns 60-211; Baldwin 13862.

³⁶ Acts 1909; Burns 60-204; Baldwin 13857.

month and the respective accounts to which such payments were applied. The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years, and the auditor enters such lists in his register of receipts and issues a quietus for the items of such lists which have been paid over to the treasurer.³⁷

A copy of the annual report (accompanied by vouchers) of each township trustee, to the township advisory board is filed in the auditor's office.³⁸ Annually the township trustees report to the auditor the amount of claims in the several townships for livestock, fowls, or game destroyed or damaged by dogs; and the auditor annually reports to the auditor of state the amount of all such claims remaining unpaid for lack of funds.³⁹ Quarterly each justice of the peace in the county reports to the auditor all humane fund fees collected by him.⁴⁰

Formerly the board of commissioners met in the auditor's office and audited the warrants of all township trustees in the county. These warrants and the board's decision thereon were registered by the auditor in a book kept for that purpose.⁴¹

The auditor keeps records of all financial transactions of the county. He keeps a fee book and cashbook,⁴² a monthly balance record, and a record of receipts, appropriations, and disbursements.⁴³ He keeps separate accounts for each

³⁷ Acts 1841-42 (general), ch. 45, sec. 3. Acts 1871, ch. 17, secs. 20, 23, 27, 31. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

Such lists were entered in the "order book of the board of commissioners" (commonly known as the "commissioners' record") before the state board of accounts provided otherwise in 1909. Interview of March 7, 1940 with E. P. Brennan, state examiner.

³⁸ Acts 1899, 1901; Burns 65-318; Baldwin 16075.

³⁹ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1937; Burns, 1939 suppl., 16-327; Baldwin, 1937 suppl., 3811-11.

⁴⁰ Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1913; Burns 9-2502, 9-2503; Baldwin 3803, 3804. Acts 1909; Burns 60-214; Baldwin 13865.

⁴¹ Acts 1897, ch. 144, secs. 1, 2.

⁴² Acts 1840-41 (general), ch. 2, sec. 27. Acts 1871, ch. 17, sec. 38. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

⁴³ Required by order of state board of accounts. Interview of May 18, 1939 with E. P. Brennan, state examiner.

specific item of appropriation by the county council⁴⁴ and an account current, with the treasurer, of county funds.⁴⁵

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.⁴⁶ He makes certificates showing claimant's compliance with his contract.⁴⁷ He publishes all such claims and allowances thereon and also all allowances against the county made by courts.⁴⁸ On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcript of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.⁴⁹

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.⁵⁰ The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.⁵¹ Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.⁵² All redeemed or canceled warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.⁵³

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.⁵⁴ Records of the warrants are kept

⁴⁴ Acts 1899; Burns 26-523; Baldwin 5387.

⁴⁵ Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423. Wells v. State *ex rel.* Board of County Comrs. (1864), 22 Ind. 241.

⁴⁶ Acts 1879 (Spec. Sess.); Burns 26-805.

⁴⁷ Acts 1899; Burns 26-538; Baldwin 5403.

⁴⁸ Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. Cheney v. State *ex rel.* Risk (1905), 165 Ind. 121, 74 N. E. 892.

⁴⁹ 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. Scotten v. Divelbiss (1874), 46 Ind. 301; Shirk v. Moore (1884), 96 Ind. 199; Strebin v. Lavengood (1904), 163 Ind. 478, 71 N. E. 494; Smith v. Gustin (1907), 169 Ind. 42, 81 N. E. 722.

⁵⁰ 1 Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1939 suppl., 26-522; Baldwin, 1935 suppl., 5386. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1939 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

⁵¹ Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

⁵² Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

⁵³ Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Interview of June 14, 1939 with E. P. Brennan, state examiner.

⁵⁴ Acts 1899; Burns 26-544; Baldwin 5409.

in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.⁵⁵ The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.⁵⁶ Before issuing a warrant or *quietus* the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.⁵⁷ The action of *mandamus* lies to compel the auditor to draw a warrant on the county treasury.⁵⁸

On claims allowed by courts for cost of administration of justice,⁵⁹ and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.⁶⁰ But a warrant may be issued to pay a judgment, or for management of the school fund, or for expenses of insanity inquests, or for salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.⁶¹ A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be canceled by the board of commissioners, if not called for after publication of notice.⁶²

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of

⁵⁵ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Interview of August 15, 1939 with E. P. Brennan, state examiner.

⁵⁶ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

⁵⁷ Acts 1909; Burns 60-215; Baldwin 13866.

⁵⁸ *Gill v. State ex rel. Board of County Comrs.* (1880), 72 Ind. 266.

⁵⁹ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1939 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2336. 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

⁶⁰ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

⁶¹ Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

⁶² Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

public welfare officials, and keeps records of county welfare funds.⁶³

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for 2 months, subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.⁶⁴

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.⁶⁵

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.⁶⁶

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.⁶⁷ If the amount of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the state board of tax commissioners for hearing and disposition.⁶⁸ Contracts for extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.⁶⁹

The auditor, as relator, may sue, in the name of the

⁶³ Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1. (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1939 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

⁶⁴ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

⁶⁵ Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

⁶⁶ Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

⁶⁷ Acts 1899, 1921; Burns 26-540; Baldwin 5405.

⁶⁸ *Ibid.* Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

⁶⁹ Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

state, to recover money owing to the county;⁷⁰ and the auditor may compromise the suits brought by him and receive the money agreed to be paid.⁷¹

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains.⁷² Assessments for flood gates⁷³ and for the cutting or eradicating of Canada thistles⁷⁴ are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.⁷⁵

The board of commissioners has always had power to establish, construct, repair, and vacate county roads.⁷⁶ The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.⁷⁷ Road petitions are filed with the auditor for presentment to the board of commissioners.⁷⁸

⁷⁰ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Rogers v. Gibson* (1860), 15 Ind. 218; *Scotten v. State ex rel. Simonton* (1875), 51 Ind. 52; *Yater v. State ex rel. Board of County Comrs.* (1877), 58 Ind. 299; *Hostetler v. State ex rel. Dean* (1878), 62 Ind. 183; *Vanarsdall v. State ex rel. Watson* (1879), 65 Ind. 176; *Gauntt v. State ex rel. Stout* (1881), 81 Ind. 137; *Heagy v. State ex rel. Forkner* (1882), 85 Ind. 260; *Demarest v. Holdeman* (1901), 157 Ind. 467, 62 N. E. 17.

⁷¹ *Cabel v. McCafferty* (1876), 53 Ind. 75; *Vigo Twp. v. Board of County Comrs.* (1887), 111 Ind. 170, 12 N. E. 305.

⁷² Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. *Storms v. Stevens* (1885), 104 Ind. 46, 3 N. E. 401; *Lockwood v. Ferguson* (1886), 105 Ind. 380, 5 N. E. 3; *Board of County Comrs. v. Fahlor* (1888), 114 Ind. 176, 15 N. E. 830.

⁷³ Acts 1903; Burns 27-703; Baldwin 5841.

⁷⁴ Acts 1929, 1937; Burns, 1939 suppl., 15-904; Baldwin, 1937 suppl., 3719.

⁷⁵ Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. *Simonton v. Hays* (1882), 68 Ind. 70; *Vizzard v. Taylor* (1884), 97 Ind. 90; *White v. Fleming* (1888), 114 Ind. 560, 16 N. E. 487; *Cooper v. Ray* (1897), 148 Ind. 328, 47 N. E. 668.

⁷⁶ Acts 1807, ch. 44, secs. 1-24. Acts 1811, ch. 29, secs. 1, 2. Acts 1815, ch. 5, secs. 1-20. Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. Laws 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. Laws 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 28, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

⁷⁷ Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8823.

⁷⁸ Acts 1919, 1921; Burns 26-304; Baldwin 8862.

When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.⁷⁹ Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.⁸⁰ The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.⁸¹ Formerly the auditor annually delivered to the road supervisor a list of landowners of the county⁸² and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.⁸³

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.⁸⁴

In each township having a population not exceeding 5,000 (all townships except Wayne), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.⁸⁵

The auditor certifies to the city officials the number of taxable polls therein,⁸⁶ adds omitted polls to the tax duplicate,⁸⁷ and certifies to the treasurer the amount of excise tax due from financial institutions.⁸⁸ For excise tax purposes, each financial institution delivers to the auditor monthly statements showing the number of its shares, amount

⁷⁹ Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. Turpin v. Eagle Creek & L. W. L. G. R. Co. (1874), 48 Ind. 45.

⁸⁰ Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8915. Florer v. McAfee (1893), 135 Ind. 540, 35 N. E. 277; Smyth v. State *ex rel.* Braun (1902), 158 Ind. 332, 62 N. E. 449.

⁸¹ Acts 1935; Burns, 1939 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

⁸² Rev. Stat. 1843, ch. 16, sec. 105.

⁸³ Acts 1883, ch. 56, sec. 20.

⁸⁴ Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

⁸⁵ Acts 1933; Burns 64-1031; Baldwin 15664.

⁸⁶ Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

⁸⁷ Acts 1919; Burns 66-2102; Baldwin 15803.

⁸⁸ Acts 1933; Burns 64-810; Baldwin 15591.

of deposits, and kindred information.⁸⁹ The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.⁹⁰

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.⁹¹

The auditor issues licenses for peddlers, shows, theaters,⁹² transient merchants,⁹³ and public warehouses.⁹⁴ He approves and files bonds of ferrymen,⁹⁵ and records their licenses.⁹⁶ Formerly he issued licenses for the sale of liquor⁹⁷ and foreign merchandise⁹⁸ as directed by the board of commissioners, and filed remonstrances against issuance of saloon licenses by the board of commissioners.⁹⁹

The auditor takes a very important part in the administration of the property tax laws. Annually the township assessors file with the auditor all returns of real and personal property made by them, together with all assessment

⁸⁹ Acts 1933, 1935; Burns, 1939 suppl., 64-807; Baldwin, 1935 suppl., 15588.

⁹⁰ Acts 1933; Burns 64-917; Baldwin 15915.

⁹¹ Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1939 suppl., 16-317; Baldwin, 1937 suppl., 3811-1. *Finerty v. State ex rel. School City of Gary* (1938), 213 Ind. 470, 12 N. E. (2d) 941.

⁹² 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1939 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

⁹³ Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

⁹⁴ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

⁹⁵ Acts 1817-18 (general), ch. 45, sec. 8. Rev. Laws 1824, ch. 42, sec. 8. Rev. Laws 1831, ch. 38, sec. 5. Acts 1881 (Spec. Sess.); Burns 36-2504; Baldwin 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2607; Baldwin 7697.

⁹⁶ Acts 1881 (Spec. Sess.); Burns 36-2610; Baldwin 7700.

⁹⁷ Acts 1817-18 (general), ch. 47, secs. 2, 3. Acts 1820-21, ch. 36, secs. 1, 2. Rev. Laws 1824, ch. 107, secs. 1, 3. Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. *Padgett v. State* (1884), 93 Ind. 396.

⁹⁸ Acts 1816-17, ch. 17, sec. 4. Acts 1817-18 (general), ch. 44, sec. 4. Rev. Laws 1824, ch. 23, sec. 3. Rev. Laws 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7 *et seq.* Rev. Stat. 1843, ch. 12, sec. 165 *et seq.*

⁹⁹ Acts 1905, ch. 6, sec. 1.

lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the county assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.¹⁰⁰ If a taxpayer refuses to make a personal property tax return or an oath required by law in connection with the assessment of personal property, the auditor adds 50 percent to the personal property valuation returned by the assessor.¹⁰¹ If a landowner fails to furnish a list of lands and improvements within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of any lands or improvements listed by the assessor and which were not assessed the previous year.¹⁰² The auditor assesses omitted property, after giving notice to the taxpayer.¹⁰³ For the purpose of the listing and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.¹⁰⁴ Acting for the county board of review, the auditor gives notice to taxpayers in order that the board may assess omitted property or raise valuations.¹⁰⁵ Appeals from the county board of review to the state board of tax commissioners are usually

¹⁰⁰ Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1023, 64-1029, 64-1102; Baldwin 15689, 15694, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Interview of May 18, 1939 with E. P. Brennan, state examiner.

¹⁰¹ Acts 1919; Burns 64-610; Baldwin 15578.

¹⁰² Acts 1919; Burns 64-1008; Baldwin 15674.

¹⁰³ Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 183, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. *Scott v. Knightstown* (1882), 84 Ind. 108; *Lang v. Clapp* (1885), 103 Ind. 17, 2 N. E. 197; *Vandercook v. Williams* (1885), 106 Ind. 345, 1 N. E. 619; *Williams v. Segur* (1885), 106 Ind. 368, 1 N. E. 707; *McKeen v. Haskell* (1886), 108 Ind. 97, 8 N. E. 901; *Board of County Comrs. v. Senn* (1889), 117 Ind. 410, 20 N. E. 276; *Florer v. Sherwood* (1891), 128 Ind. 495, 28 N. E. 71; *Hennel v. Board of County Comrs.* (1892), 132 Ind. 32, 31 N. E. 462; *Florer v. Sheridan* (1894), 137 Ind. 28, 36 N. E. 365; *Cummings v. Stark* (1893), 138 Ind. 94, 34 N. E. 444; *Thiebaud v. Tait* (1894), 138 Ind. 238, 36 N. E. 525; *Eaton v. Union County Nat. Bank* (1895), 141 Ind. 136, 40 N. E. 668; *Buck v. Miller* (1896), 147 Ind. 586, 45 N. E. 647; *Miller v. Vollmer* (1899), 153 Ind. 26, 53 N. E. 949; *Crowder v. Riggs* (1899), 153 Ind. 158, 53 N. E. 1019; *Parkison v. Thompson* (1905), 164 Ind. 609, 73 N. E. 109; *Darnell v. State* (1910), 174 Ind. 143, 90 N. E. 769.

¹⁰⁴ Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

¹⁰⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

heard in the office of the auditor.¹⁰⁶ Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.¹⁰⁷ Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.¹⁰⁸

The auditor annually makes out, and delivers to the township assessors, lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.¹⁰⁹ The auditor keeps a record of all lands classified by the state forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.¹¹⁰

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹¹¹ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.¹¹² The auditor corrects on the tax books any errors as to description of property and names of owners.¹¹³

¹⁰⁶ Acts 1919, 1935; Burns, 1939 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

¹⁰⁷ Acts 1889, ch. 103, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

¹⁰⁸ Acts 1891, ch. 99, sec. 83.

¹⁰⁹ Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1939 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

¹¹⁰ Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

¹¹¹ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

¹¹² Acts 1921; Burns 64-519; Baldwin 14777.

¹¹³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

Forms and instructions for taxation purposes are prescribed by the state board of tax commissioners and delivered to the auditor.¹¹⁴ The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.¹¹⁵ Assessments of omitted real estate by township assessors are filed with the auditor.¹¹⁶ The auditor makes assessment of any newly platted land additions to any city or town.¹¹⁷

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the state board of tax commissioners to obtain a reassessment of real estate.¹¹⁸

Sworn statements and applications to obtain tax exemptions authorized by law (including mortgage deductions) are filed with the auditor, who refers them to the county board of review for approval.¹¹⁹

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.¹²⁰ After the county council, at its annual meeting,

¹¹⁴ Acts 1919; Burns 64-2803; Baldwin 15866. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), pp. 22-30, 53, 54, 102, 103, 123-139.

¹¹⁵ Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1879 (Spec. Sess.), Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

¹¹⁶ Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

¹¹⁷ Acts 1919; Burns 64-1027; Baldwin 15691.

¹¹⁸ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1939 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

¹¹⁹ Tax exemptions in general. Acts 1937; Burns, 1939 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

Volunteer firemen. 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec. 1. Acts 1939; Burns, 1939 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

Disabled veterans. Acts 1927; Burns 64-206; Baldwin 10987.

Mortgage deductions. Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1939; Burns, 1939 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. "Mortgage Deductions," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), pp. 64-74.

¹²⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the county and the several municipal corporations therein, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.¹²¹ The decisions of the state board of tax commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.¹²²

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporations, and copies of the budgets on which such levies are based.¹²³ At the annual meeting of the county board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.¹²⁴ If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.¹²⁵ The decision of the state board of tax commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.¹²⁶

The auditor certifies to the state board of tax commissioners all emergency appropriations made by the county council, together with tax levies based thereon.¹²⁷

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed

¹²¹ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹²² Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹²³ Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1939 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

¹²⁴ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹²⁵ Acts 1937; Burns, 1939 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹²⁶ Acts 1937; Burns, 1939 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

¹²⁷ Acts 1899, 1907, 1913, 1937; Burns, 1939 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1939 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the auditor of state.¹²⁸ Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.¹²⁹ Formerly a separate list of delinquent taxes was delivered by the county auditor to the auditor of state, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.¹³⁰

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges the interest and penalty required by law, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.¹³¹ The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.¹³² The auditor acts as arbiter in case of partial redemption of lands from tax sale.¹³³ When lands are redeemed from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.¹³⁴ The auditor executes all tax deeds of land, and keeps a record thereof.¹³⁵

¹²⁸ Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz (1884), 98 Ind. 231; Adams v. Davis (1886), 109 Ind. 10, 9 N. E. 162; Smith v. Smith (1902), 159 Ind. 388, 65 N. E. 183.

¹²⁹ Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

¹³⁰ Rev. Stat. 1843, ch. 12, sec. 68. Interview of June 29, 1939 with Frank G. Thompson, auditor of state.

¹³¹ Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1939 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Abbott v. Edgerton (1876), 53 Ind. 196; Stropes v. Board of County Comrs. (1880), 72 Ind. 42.

¹³² Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben (1894), 137 Ind. 155, 36 N. E. 844.

¹³³ Acts 1919; Burns 64-2308; Baldwin 15826.

¹³⁴ Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

¹³⁵ Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2404 to 64-2409; Baldwin 15833 to 15838. Reid v. State *ex rel.* Thompson (1881), 74 Ind. 252; Smith v. Kyler (1881), 74 Ind. 575; Woolen v. Rockefeller (1881), 81 Ind. 208; Lancaster v. De Hadway (1884), 97 Ind. 565; Rowe v. Peabody (1885), 102 Ind. 198, 1 N. E. 553.

On authorization by the board of commissioners he issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at illegal tax sales.¹³⁶ Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.¹³⁷

The state's share of taxes collected by the county treasurer is disbursed to the proper state officers on warrants drawn by the auditor on the county treasury.¹³⁸

The auditor manages the school funds held in trust by the county,¹³⁹ with the exception of making loans. The county school fund board (composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court) makes all the loans from those funds.¹⁴⁰ Whenever a Congressional Township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.¹⁴¹ The auditor conducts the sale of school lands¹⁴² (including those previously sold and forfeited by the purchasers thereof).¹⁴³ The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.¹⁴⁴

Funds held by the county in trust for cemetery purposes are managed and loaned by the auditor in the manner provided by law for school funds.¹⁴⁵

Certified copies of official oaths of all officers appointed by the board of commissioners, together with certified

¹³⁶ Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. *Wolfe v. State ex rel. Kennard* (1883), 90 Ind. 16.

¹³⁷ Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

¹³⁸ Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1939 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

¹³⁹ Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

¹⁴⁰ Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1939 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

¹⁴¹ Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

¹⁴² Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

¹⁴³ Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 28-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

¹⁴⁴ Acts 1915; Burns 28-239; Baldwin 5435.

¹⁴⁵ Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674.

copies of oaths of such township officers (except justices of the peace and constables) as required by the board, are filed with the auditor.¹⁴⁶ When a bond is required of any such officer, it also is filed with the auditor.¹⁴⁷ The board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.¹⁴⁸ The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on said bond.¹⁴⁹ The official bond of each township trustee is approved by the auditor.¹⁵⁰

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice is given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the state superintendent of public instruction.¹⁵¹

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁵²

¹⁴⁶ Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

¹⁴⁷ Rev. Stat. 1843, ch. 4, secs. 68, 89. 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13058.

Bond of township trustee. *Opinions of the Attorney General of Indiana, 1939*, pp. 7, 8.

¹⁴⁸ Acts 1851-52; Burns 49-123; Baldwin 13093.

¹⁴⁹ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹⁵⁰ Acts 1859, 1889; Burns 65-102; Baldwin 16060. Acts 1915; Burns 65-103; Baldwin 16061.

Copeland v. State ex rel. Davis (1890), 126 Ind. 51, 25 N. E. 666.

¹⁵¹ Acts 1873, ch. 25, sec. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. *State ex rel. Nebecker v. Sutton* (1834), 99 Ind. 309; *State ex rel. Laughlin v. Porter* (1888), 113 Ind. 79, 14 N. E. 883; *State ex rel. Williams v. Edwards* (1888), 114 Ind. 581, 16 N. E. 627; *State ex rel. Drummond v. Dillon* (1890), 125 Ind. 65, 25 N. E. 136; *State ex rel. Morris v. McFarland* (1898), 149 Ind. 266, 49 N. E. 5.

¹⁵² 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examine the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.¹⁵³ The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.¹⁵⁴

Under former laws the auditor prepared blank forms of poll books and election returns, and delivered them to the inspectors of the election precincts;¹⁵⁵ delivered election supplies to the registration inspector of each precinct;¹⁵⁶ kept the completed registration books and forms in his office, open to public inspection;¹⁵⁷ filed in his office petitions for elections under the local option liquor laws;¹⁵⁸ and delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with a transcript of the proceedings of the board.¹⁵⁹

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the board of commissioners.¹⁶⁰ Vacancies in the former office of real estate appraiser were filled through appointment by the auditor.¹⁶¹

Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the state over 21 years old.¹⁶² Books and blanks, together with copies

¹⁵³ Acts 1875; Burns 26-201; Baldwin 5032.

¹⁵⁴ Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

¹⁵⁵ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁵⁶ Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁵⁷ Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁵⁸ Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

¹⁵⁹ Acts 1816-17, ch. 9, sec. 22. Rev. Laws 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch.

5, sec. 103.

¹⁶⁰ Rev. Stat. 1843, ch. 10, sec. 4.

¹⁶¹ Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁶² Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin

of the law requiring such enumerations, are furnished to the township trustees by the auditor.¹⁶³ The trustees' returns are filed in the office of the auditor.¹⁶⁴ The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.¹⁶⁵ The auditor then certifies the corrected enumerations to the auditor of state.¹⁶⁶ Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."¹⁶⁷

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb, blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the state department of public welfare.¹⁶⁸

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.¹⁶⁹ The township trustees formerly made enumerations of children between the ages of 5 and 21 years and delivered the returns to the auditor, who delivered them to the state superintendent of public instruction.¹⁷⁰

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the

¹⁶³ Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

¹⁶⁴ Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

¹⁶⁵ Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

¹⁶⁶ Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

¹⁶⁷ Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

¹⁶⁸ Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the state board of charities. In 1936 the duties of that board were transferred to the state department of public welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

¹⁶⁹ Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

¹⁷⁰ Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855, ch. 86, sec. 26.

county and showing all losses paid by the company for the last semiannual period.¹⁷¹ Formerly financial statements of banks were filed with the auditor.¹⁷²

Formerly the auditor, as clerk of the old-age pension board, issued certificates to applicants approved by the board, and delivered duplicates thereof to the auditor of state.¹⁷³

Articles of incorporation of humane societies are filed with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.¹⁷⁴

Scalps of woodchucks, heads of owls, hawks, and crows, and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.¹⁷⁵

The auditor of state prepares maps or plats of the lands belonging to the state and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the state, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.¹⁷⁶

The auditor must preserve the documents, books, papers, and maps deposited in his office.¹⁷⁷ If any map or plat in his office becomes worn or defaced, he makes a new copy thereof.¹⁷⁸ He takes copies of any maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.¹⁷⁹

The auditor and his deputies can administer all oaths necessary in the performance of their duties.¹⁸⁰

¹⁷¹ Acts 1891, ch. 192, sec. 1. On June 16, 1893 this act was held unconstitutional. *Henderson v. London & Lancashire Ins. Co.* (1893), 135 Ind. 23, 34 N. E. 565.

¹⁷² Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

¹⁷³ Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

¹⁷⁴ Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

¹⁷⁵ Acts 1883; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

¹⁷⁶ Acts 1825, ch. 47, sec. 2. Rev. Laws 1831, ch. 11, sec. 6. Rev. Laws 1838, ch. 10, secs. 6, 7. 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

¹⁷⁷ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700. Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹⁷⁸ 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

¹⁷⁹ *Ibid.*

¹⁸⁰ 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

Forms for the following books were prescribed for the county auditors by the state board of accounts: A combined fee book and cashbook; tax duplicate; ditch tax duplicate; ditch tax duplicate-10 year payment; moratorium tax duplicate; register of warrants on treasurer; register of quietuses and receipts; distribution record; record of commissioners' allowances; ledger of appropriations and disbursements; ledger of receipts and disbursements; record of receipt and sale of intangible tax stamps; register of banks and savings banks; register of building and loan associations; register of school fund loans; register of school fund interest contracts and record of payments; inventory of school fund loans; record of condition of school funds; register of macadam road bonds and interest paid; bond register; transfer record; venue record; monthly balance record; auditor's financial statement; insolvent record; register of receipts and sales of material-county infirmary; construction record-ruled, printed, punched; register of redemption bonds; bidders' record; work sheet-delinquent tax extension; abstract of delinquent tax 1934 carried to 1935 duplicate; poor relief ledger; township poor bond redemption ledger; ledger of poor bond receipts; and auditor's poor claim register.¹⁸¹

Forms for the following blanks, documents, and reports were prescribed for the county auditors by the state board of accounts: Report of fees collected; claim for burial of soldiers and sailors; ordinance of appropriation; estimate of revenues other than taxes; warrants on treasurer; claims against county; dog claims; estimate of county commissioners-general; estimates of county commissioners for orphans' home, tuberculosis hospital, county hospital, and insane hospital; estimates of the clerk of the circuit court, auditor, treasurer, recorder, sheriff, surveyor, superintendent of schools, coroner, county assessor, township assessors, prosecuting attorney, highway supervisor, and circuit court; auditor's card; report of superintendent of infirmary; report of viewers and engineer; county engineer's monthly estimate; surveyor's claim blank; specifications, bid, and contract for county printing and purchase of supplies; requisition; apportionment of current tax-June settlement; apportionment of current tax-December settlement; apportionment of bank or building and loan tax-June or December settlement; apportionment of delinquent

¹⁸¹ Acts 1909; Burns 60-202; Baldwin 13855. Interview of May 18, 1939 with E. P. Brennan, state examiner.

tax-June settlement; apportionment of delinquent tax-December settlement; apportionment of moratorium tax-June or December settlement; distribution sheets-June and December; apportionment of treasurer's fees for collection of delinquent tax-June or December settlement; election to accept extension of school fund loan; contract for installment payments of delinquent interest on school fund loans; agreement for issuance of redemption bond; revised budget estimates of funds-county, township, civil city, civil town, school corporation, and library; estimate of miscellaneous revenue-county general fund, township fund, corporation fund, school corporation, civil town; June settlement sheets; December settlement sheets; abstract of taxables; notice to bidders; certificate of code compliance; school fund mortgage; journal voucher; auditor's report to commissioners; and kennel license.¹⁸²

The state board of accounts was created in 1909.¹⁸³ Nearly all of the aforementioned forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the state board of accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the state board consolidated many of his records that year.¹⁸⁴

AUDITS AND REPORTS

215. BOARD OF ACCOUNTS REPORTS, 1922-. 2 f. b. (96-97). Reports of audits of county offices by field examiners of state board of accounts, showing dates of report and audit; names of office, official, and examiners; and statement of condition of accounts. Arr. chron. by dates of reports. For index, see entry 3. Typed. 10 x 5 x 14. Aud. vt.

216. CLERK'S REPORTS, 1871-. 3 f. b. (60-62). Clerk's quarterly reports of all fees collected, showing date of report, cause number, and amount and nature of fees collected. Arr. chron. by dates of reports. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

¹⁸² *Ibid.*

¹⁸³ Acts 1909; Burns 60-202; Baldwin 13855.

¹⁸⁴ *Ibid.* Interview of May 18, 1939 with E. P. Brennan, state examiner.

217. TREASURERS REPORTS, 1861-. 1 f. b. (63).

Treasurers' monthly reports to auditor of receipts and disbursements of county funds, showing date of report, name of fund, amounts of receipts and disbursements, and balance. Arr. chron. by dates of reports. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

218. SHERIFF'S REPORTS, 1871-. 1 f. b. (65).

Reports of fees collected by county officers, including:

- i. Sheriff's reports of fees collected, showing dates of report and collection, name of payer, amount of fees, and date paid to treasurer.
- ii. Prosecuting attorney's reports of fees collected, 1932-, showing date of report, name of payer, amount of fees, cause number, and date paid to treasurer.
- iii. Justices of Peace reports of fees and fines collected, 1933-, showing dates of report and collection; names of plaintiff, defendant, and justice; and amount collected.

Arr. chron. by dates of reports. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

219. RECORDERS REPORTS, 1895-. 1 f. b. (64).

Recorders' reports to auditor of fees collected, showing date of report, total number and kinds of instruments, and amount collected. Arr. chron. by dates of reports. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

220. REPORT OF TOWNSHIP TRUSTEE, 1895-. 21 vols., 3 bdls. Annual financial reports of township trustees to advisory board, showing dates of report and approval; names of township, trustee, and fund; receipt number; amounts of receipts and disbursements; and total balance. Arr. by names of twps., thereunder chron. by dates of reports. No index. Hdw. Vols., 100 pp. 14 x 9 x 1; bdls., 14 x 9 x 3. 20 vols., 1895-1928, bsmt. stor. rm.; 1 vol., 3 bdls., 1929-, aud. vt.

221. HIGHWAY SUPERINTENDENT'S REPORTS, 1914-. 1 f. b. (66).

Highway superintendents' reports of expenditures, showing date of report; date, amount, and nature of expenditure; total expenditures; and balance. Arr. chron. by dates of reports. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

222. DOG TAX REPORTS, 1918-. 1 f. b. (73).

Township assessors' reports of dog taxes collected, showing date of report, amount collected, and names of assessor and township. Arr. chron. by dates of reports. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

223. RECORD OF DOG FUNDS, 1898-1917. 1 vol. (1).

Record of township assessors reports of dog taxes collected, showing date of report, date and amount of collection, and names of assessor and township. Arr. by names of twps., thereunder chron. by dates of reports. No index. Hdw. 200 pp. 14 x 9 x 1½. Aud. vt.

224. TRUSTEE VOUCHERS, 1928-. 21 f. b.

Receipted carbon copies of township trustees' vouchers, showing date, amount, number, and purpose of voucher; and names of township, payee, and fund. Arr. chron. by dates of vouchers. For index, see entry 3. Hdw. 10 x 5 x 14. 14 f. b., 1928-33, aud. vt.; 7 f. b., 1934-, aud. off.

RECEIPTS AND DISBURSEMENTS

GENERAL FUND

225. RECORD OF MONTHLY BALANCES, 1911-. 4 vols. (1, 2, and two vols. not labeled).

Record of monthly balances of county funds, showing date of balance, name of fund, amounts of receipts and disbursements, and current balance or overdraft. Arr. chron. by dates of balances. No index. Hdw. 150 pp. 20 x 16 x 1. Aud. vt.

226. AUDITOR'S LEDGER OF RECEIPTS AND DISB[urser]M[en]TS, 1924-. 7 vols. Title varies: Record of Appropriations and Disbursements, 1924-29, 2 vols.

Record of receipts, appropriations, and disbursements, showing dates and amounts of receipt, appropriation and disbursement; name of fund; and balance or overdraft. This is a combination of five records formerly kept separately: Record of Appropriations and Disbursements, entry 227; Receipts and Disbursements, entry 228; Auditor's Register of All Receipts Other Than Tax Payments, entry 229; Receipts, Gravel Roads, entry 243; Disbursements of Gravel Roads, entry 244. Arr. by names of funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 400 pp. 18 x 14 x 3. 2 vols., 1924-29, bsmt. stor. rm.; 5 vols., 1930-, aud. off.

227. RECORD OF APPROPRIATIONS AND DISBURSEMENTS, 1900-1923. 16 vols. (A, nine vols. not labeled, 1-6). Title varies: Appropriation Record, 1900-1910, 10 vols. 1924- in Auditor's Ledger of Receipts and Disb[urser]m[en]ts, entry 226.

Record of appropriations and disbursements, showing amount of appropriation, date and amount of disbursement, and name of fund. Arr. by names of funds, thereunder chron. by dates of

disbursements. No index. Hdw. 400 pp. 18 x 14 x 3. 11 vols., 1900-1910, 1912-13, bsmt. stor. rm.; 5 vols., 1911, 1914-23, aud. vt.

228. RECEIPTS AND DISBURSEMENTS, 1841-94, 1912-23. 7 vols. (one vol. not labeled, 1, 2, one vol. not labeled, 2, 1, 2). Title varies: Ledger 1841-71, 3 vols. 1924- in Auditor's Ledger of Receipts and Disbursements, entry 226.

Record of receipts and disbursements of county revenue, showing dates and amounts of receipts and disbursements; receipt and warrant numbers; names of payer, payee, and fund; and balance or overdraft. This is a combination of two records intercurrently kept separately: Record of Receipts, 1895-1911, entry 230; Disbursement Record, 1895-1911, entry 231. Also contains: Register of School Fund Receipts, 1912-23, entry 262. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 200 pp. 18 x 22 x 3. Bsmt. stor. rm.

229. AUDITORS REGISTER OF ALL RECEIPTS OTHER THAN TAX PAYMENTS, 1911-Apr. 1924. 2 vols. (1, 2). May 1924- in Auditors Ledger of Receipts and Disbursements, entry 226.

Record of receipts other than taxes, showing date, amount, number, and nature of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 240 pp. 16 x 12 x 2. Aud. vt.

230. RECORD OF RECEIPTS, 1895-1911. 5 vols. (1-5). 1841-94, 1912-23 in Receipts and Disbursements, entry 228.

Record of receipts of county revenue, showing date, number, amount, and nature of receipt; and names of payer, taxing unit, and fund. Arr. chron. by dates of receipts. No index. Hdw. 75 pp. 17 x 20 x 2. Bsmt. stor. rm.

231. DISBURSEMENT RECORD, 1895-1911. 7 vols. (1-7). 1841-94, 1912-23 in Receipts and Disbursements, entry 228.

Record of disbursement of county revenue, showing date, number, and amount of warrant; names of payee and fund; and date warrant redeemed. Arr. chron. by dates of warrants. No index. Hdw. 150 pp. 18 x 24 x 3. Bsmt. stor. rm.

232. AUDITORS FEE AND CASH BOOK, 1895-. 5 vols. (two vols. not labeled, 1-3).

Record of fees collected, showing date, number, amount, and nature of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 320 pp. 18 x 12 x 3. 2 vols., 1895-1909, bsmt. stor. rm.; 1 vol., 1910-20 aud. vt.; 2 vols., 1921-, aud. off.

233. FEE BOOK, 1879-1928. 1 vol. (1).

Record of fees claimed by auditor for services in filing instruments in commissioners court proceedings, showing date of filing, nature of instrument, amount of fee, and names of principals. Arr. chron. by dates of filing. No index. Hdw. 250 pp. 16 x 12 x 2. Aud. vt.

234. DISTRIBUTION OF TAXES, 1893-. 8 vols. (A-D, and four vols. not labeled).

Record of auditors certificates of distribution of funds, showing date of certificate; warrant number; names of payee, taxing unit, and fund; and amount of distribution. Arr. chron. by dates of certificates. No index. Hdw. 200 pp. 18 x 12 x 2. 1 vol., 1893-1903, bsmt. stor. rm.; 7 vols., 1904-, aud. vt.

235. AUDITOR'S WARRANTS, 1926-. 16 vols. (labeled by years).

Carbon copies of warrants, showing date, number, amount, and purpose of warrant; claim and appropriation numbers; and names of payee and depository. Arr. num. by warrant nos. No index. Typed. 500 pp. 18 x 14 x 4. 12 vols., 1926-35, bsmt. stor. rm.; 4 vols., 1936-, aud. vt.

For prior records, see entry 236.

236. REGISTER OF WARRANTS, 1842-81, 1911-24. 8 vols. (two vols. not labeled, 3, 4, 1-4). Title varies: Register of Orders, 1842-81, 4 vols.

Register of warrants, showing date, number, amount, and purpose of warrant; names of payee and fund; and claim and appropriation numbers. Arr. chron. by dates of warrants. No index. Hdw. 400 pp. 18 x 14 x 3. 4 vols., 1842-81, bsmt. stor. rm.; 4 vols., 1911-24, aud. vt.

For subsequent records, see entry 235.

237. OLD AGE PENSION WARRANTS, 1936-. 5 vols. (labeled by years).

Copies of warrants issued to recipients of public welfare assistance, showing date, number, and amount of warrant; and name of payee. Arr. num. by warrant nos. No index. Typed. 500 pp. 18 x 16 x 4. Aud. vt.

238. APPLICATIONS TO PAY, 1929-. 3 vols. (labeled by years).

Copies of applications to pay money other than taxes, showing date and number of application, name of payer, and amount and nature of payment. Arr. num. by application nos. No index. Hdw. 500 pp. 16 x 12 x 3. Aud. vt.

239. MISCELLANEOUS RECEIPTS, 1900-. 4 f. b. (90-93).

Treasurer's receipts issued for money received other than

taxes, showing date, amount, and number of application to pay; names of payer and fund; and receipt number. Arr. alph. by names of payers. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

240. ALLOWANCES, JAY CIRCUIT COURT, 1884-1927, 1931-.
5 vols., 2 bdls.

Clerk's certificates of court allowances, showing dates of certificate and allowance, name of payee, amount of allowance, and warrant number. Arr. chron. by dates of certificates. No index. 1884-1927, hdw.; 1931-, typed. Vols., 400 pp. 16 x 9 x 1; bdls., 14 x 12 x 4. 4 vols., 1884-1927, bsmt. stor. rm.; 1 vol., 2 bdls., 1931-, aud. off.

241. AUDITOR'S CERTIFICATE OF DISTRIBUTION, 1916-. 4 vols.
(3, 5, 6, and one vol. not labeled), 1 bdl.

Copies of warrants issued in semiannual distribution of funds, showing date, amount, and number of warrant; and name of taxing unit. Arr. chron. by dates of warrants. No index. Hdw. 250 pp. 17 x 11 x 2. 3 vols., 1916-34, bsmt. stor. rm.; 1 vol., 1 bdl., 1935-, aud. vt.

242. CHANGE OF VENUE RECORD, 1906-. 1 vol. (1).

Record of receipts and disbursements for causes venued to and from other counties, showing dates of filing and hearing; dates, numbers, and amounts of receipt and warrant; number and nature of cause; and names of plaintiff, defendant, and foreign county. Arr. chron. by dates of receipts and warrants. No index. Hdw. 400 pp. 18 x 12 x 2½. Aud. vt.

For other change of venue records, see entry 110.

PUBLIC IMPROVEMENTS (see also entries 22-27, 192-195, 323-328)

243. RECEIPTS, GRAVEL ROADS, 1908-23. 1 vol. (1). 1883-1900 in Receipts and Disbursements of Gravel Road, entry 246; 1924- in Auditor's Ledger of Receipts and Disb[ursem]en[ts], entry 226.

Record of receipts of gravel road funds, showing date, number, and amount of receipt; and names of payer, road, and fund. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 18 x 22 x 2. Bsmt. stor. rm.

244. DISBURSEMENTS OF GRAVEL ROADS, 1908-23. 2 vols. (1, 2). 1883-1900 in Receipts and Disbursements of Gravel Road, entry 246; 1924- in Auditor's Ledger of Receipts and Disb[ursem]en[ts], entry 226.

Record of disbursements of gravel road funds, showing date, number, and amount of order; and names of payee, road, and fund. Arr. chron. by dates of orders. No index. Hdw. 200 pp. 18 x 22 x 2. Bsmt. stor. rm.

245. ROAD AND MISCELLANEOUS APPROPRIATIONS AND DISBURSEMENTS, 1911-25. 1 vol. (1). 1926- in Bond Register, entry 11.

Record of appropriations and disbursements for road and miscellaneous expenditures, showing same information as in entry 227. Arr. chron. by dates of disbursements. Indexed alph. by names of roads. Hdw. 200 pp. 18 x 12 x 2. Aud. vt.

246. RECEIPTS AND DISBURSEMENTS OF GRAVEL ROAD, 1883-1900. 1 vol. (1).

Record of receipts and disbursements of gravel road funds, showing dates and amounts of receipt and disbursement; and names of payer, payee, road, and fund. This is a combination of two records later kept separately: Receipts, Gravel Roads, entry 243; Disbursements of Gravel Roads, entry 244. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 300 pp. 18 x 18 x 2. Bsmt. stor. rm.

TAXES

APPRAISEMENTS

247. TRANSFER BOOK, 1845-. 264 vols. (labeled by names of taxing units).

Record of ownerships and transfers of titles to real property, showing name of owner; location, description, and assessed valuation of property; names of grantor and grantee; kind of deed; dates of deed and transfer; and amount of fee. Arr. alph. by names of owners. No index. Hdw. 300 pp. 22 x 18 x 2½. 246 vols., 1845-1932, aud. vt.; 18 vols., 1933-, aud. off.

ASSESSMENT LISTS

248. ASSESSORS BOOK, 1907-. 465 vols. (labeled by names of taxing units).

Record of real and personal property assessments, showing year of assessment, names of owner and taxing unit, location and description of property, amounts of exemptions and assessed and net valuations, and number of polls. Arr. alph. by names of property owners. No index. Hdw. 100 pp. 18 x 12 x 1½. 360 vols., 1907-32, bsmt. stor. rm.; 105 vols., 1933-, assr. off.

249. TAX DUPLICATE AND DELINQUENT LIST, 1877-1911. 148 vols. (labeled by years). Discontinued.

Record of all taxes payable, showing duplicate number; names of taxing unit and property owner; location, description,

and assessed valuation of property; amounts of personal, real, poll taxes, and special assessments; and amounts paid and returned delinquent. This is a combination of two records formerly kept separately: Tax Duplicate, entry 250; Delinquent List, entry 257. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 400 pp. 12 x 24 x 3. Bsmt. stor. rm.

250. TAX DUPLICATE, 1844-46, 1851-76. 33 vols. (labeled by years). 1877- in Tax Duplicate and Delinquent List, entry 249.

Record of all taxes payable, showing duplicate number; names of taxing unit and property owner; location, description, and assessed valuation of property; amounts of real, personal, and poll taxes, and special assessments; and amounts paid. Arr. by taxing units, thereunder alph. by names of property owners. No index. Hdw. 400 pp. 12 x 24 x 3. Bsmt. stor. rm.

251. CERTIFIED ASSESSMENTS ON DITCHES AND ROADS, 1888-. 1 f. b. (49).

Certificates of assessment for cleaning ditches and repairing roads, showing dates of certificate and approval, amount of assessment, and name of owner. Arr. chron. by dates of certificates. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

252. ASSESSMENTS [Real Estate], 1847, 1851, 1855, 1907-32. 470 vols. (labeled by years).

Assessment lists of real estate and improvements, showing date of assessment; names of taxing unit and property owner; location, description, and assessed valuation of property; and amount of exemption. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 60 pp. 18 x 14 x ½. 410 vols., 1847, 1851, 1855, 1907-31, bsmt. stor. rm.; 60 vols., 1932, assr. off.

253. ASSESSMENTS, PERSONAL, 1908-. 1,039 vols. (labeled by years).

Schedule of assessments of personal property, showing date of assessment; name, address, age, and occupation of property owner; name of taxing unit; description of property; valuation by owner and assessor; and number of polls. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 250 pp. 14 x 10 x 2. 887 vols., 1908-34, bsmt. stor. rm.; 152 vols., 1935-, assr. off.

EXEMPTIONS

254. AFFIDAVITS OF MORTGAGE INDEBTEDNESS, 1928-. 69 vols. (labeled by years).

Affidavits by property owners of mortgage indebtedness on

real property, showing dates of affidavit and filing; names of mortgagor, mortgagee, and taxing unit; location and description of property; amounts of mortgage, unpaid balance, and exemption claimed and allowed; and volume and page reference to Mortgage Record, Real Estate, entry 75. Arr. by names of taxing units, thereunder alph. by names of mortgagors. No index. Hdw. 500 pp. 14 x 9 x 2. 36 vols., 1928-33, bsmt. stor. rm.; 33 vols., 1934-, aud. off.

255. RECORD OF MORTGAGE EXEMPTIONS, 1900-24. 5 vols.
Discontinued.

Abstracts of affidavits of mortgage indebtedness, showing names of mortgagor and taxing unit, location and description of property, and amount of mortgage. Arr. by names of taxing units. No index. Hdw. 100 pp. 18 x 12 x 1. Aud. vt.

DELINQUENT AND ERRONEOUS

256. SOLDIERS' EXEMPTIONS, 1928-. 11 vols. (labeled by years).

Affidavits of soldiers, sailors, marines, and nurses or widows of deceased soldiers, sailors, and marines filed to obtain tax exemptions, showing dates of affidavit and filing; name, age, and address of affiant; pension certificate number; and location and description of property. Arr. chron. by dates of filing. No index. Hdw. 50 pp. 7 x 8½ x ½. 7 vols., 1928-34, bsmt. stor. rm.; 4 vols., 1935-, aud. off.

257. DELINQUENT LIST, 1859-60, 1873-76. 5 vols. (labeled by years). 1877- in Tax Duplicate and Delinquent List, entry 249.

Record of delinquent taxes, showing duplicate number; names of taxing unit and property owner; location, description, and assessed valuation of property; and amounts of delinquency, penalty, and interest. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 400 pp. 18 x 12 x 3. Bsmt. stor. rm.

PLATS (see also entry 74)

258. TAX SALE REGISTER, 1844-. 4 vols.

Record of sales of lands and lots for delinquent taxes, showing dates of sale and redemption or tax title deed; names of taxing unit, owner, purchaser, assignee, and redeemer; location and description of property; and amount of sale. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 200 pp. 18 x 12 x 2. Aud. vt.

259. ASSESSOR'S PLAT BOOK, not dated. 16 vols. (labeled by names of taxing units).

Plat books of lands and lots, showing names of property owner and taxing unit, location and description of property, valuation of land and improvements, and section numbers. Arr. num. by section nos. No index. Hdw. 200 pp. 18 x 15 x 2. Aud. vt.

260. ASSESSOR'S PLAT BOOK, 1937-. 6 vols. (labeled by taxing units).

Plat books of lands and lots, showing same information as in entry 259. Arr. num. by section nos. Indexed num. by section nos. Hdw. 200 pp. 18 x 15 x 2. Aud. off.

SCHOOL FUNDS

(See also entries 211-214)

261. REGISTER OF SCHOOL FUND LOANS, 1840-. 6 vols. (two vols. not labeled, 3, 1-3). Title varies: Register of loans, 1840-70, 1 vol.; Register of School Trust Funds, 1871-1913, 2 vols.

Record of school and trust fund loans, showing date, number, and amount of mortgage; name of mortgagor; location and description of property; and dates and amounts of payments of principal and interest. Arr. num. by mortgage nos. Indexed alph. by names of mortgagors. Hdw. 400 pp. 18 x 12 x 2½. 1 vol., 1840-70, bsmt. stor. rm.; 5 vols., 1871-, aud. vt.

262. REGISTER OF SCHOOL FUND RECEIPTS, 1844-70, 1881-1911. 6 vols. Title varies: School Fund Ledger, 1844-71, 2 vols. 1912-23 in Receipts and Disbursements, entry 228.

Record of receipts and disbursements of school funds, showing date, number, and amount of mortgage; name of mortgagor; location and description of property; and dates and amounts of receipt and disbursement. This is a combination of two records intercurrently kept separately: Receipts and Disbursements, School Fund Principal, 1871-80, entry 263; Receipts and Disbursements of School Fund Interest, 1871-80, entry 264. Also contains: Register of Principal and Interest on Loans of Trust Funds, 1881-1911, entry 265. Arr. by names of twps., thereunder chron. by dates of receipts and disbursements. No index. Hdw. 150 pp. 16 x 11 x 1½. 2 vols., 1844-70, aud. vt.; 3 vols., 1881-1911, bsmt. stor. rm.

263. RECEIPTS AND DISBURSEMENTS, SCHOOL FUND PRINCIPAL, 1871-80. 1 vol. (1). 1844-70, 1881-1911 in Register of School Fund Receipts, entry 262.

Record of receipts and disbursements of school fund principal,

showing date, number, and amount of mortgage; names of township, mortgagor, and fund; date, number, and amount of receipt; and date, number, and amount of order. Arr. chron. by dates of mortgages. No index. Hdw. 250 pp. 16 x 15 x 1½. Aud. vt.

264. RECEIPTS AND DISBURSEMENTS OF SCHOOL FUND INTEREST, 1871-80. 2 vols. (1, 2). 1844-70, 1881-1911 in Register of School Fund Receipts, entry 262.

Record of receipts and disbursements of school fund interest, showing date, number, and amount of receipt; names of payer, township, and fund; amounts disbursed to common and Congressional Township funds; and township numbers. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 200 pp. 18 x 12 x 2. Bsmt. ster. rm.

265. REGISTER OF PRINCIPAL AND INTEREST ON LOANS OF TRUST FUNDS, 1840-75. 2 vols. (A, 1). 1876-1911 in Register of School Fund Receipts, entry 262.

Record of payments of principal and interest on trust fund loans, shewing date, amount, and number of mortgage; names of mortgagor and fund; dates and amounts of payments; and date of satisfaction. Arr. num. by mortgage nos., thereunder chron. by dates of payments. No index. Hdw. 200 pp. 16 x 11 x 1½. Bsmt. ster. rm.

266. SCHOOL FUND REPORTS, 1880-. 3 f. b. (81, 82, 114). Auditors reports of condition, apportionment and distribution of Congressional and common school funds, showing date and kind of report, amount and kind of fund held in trust, amounts of interest and principal collected, and amounts apportioned and distributed to townships. Arr. chron. by dates of reports. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

267. INVENTORY OF TRUST AND SCHOOL FUNDS, 1912-. 1 vol. (1).

Annual inventory of trust and school fund loans, showing date of inventory; date, number, and amount of mortgage; name of fund; amounts paid on principal and interest; amounts of principal and interest due; and amount represented by forfeited land. Arr. chron. by dates of inventories. No index. Hdw. 250 pp. 16 x 17 x 2. Aud. vt.

268. RECORD OF CONDITION AND DISTRIBUTION OF SCHOOL FUNDS, 1912-. 1 vol. (1).

Record of condition, distribution, and readjustment of school funds, showing date of balance, name of fund, amount held in trust, loans and certificates in force, cash in treasury, amount due from county, loans paid, losses paid by county,

finances and forfeitures, damages, amount of Congressional school fund transferred to and from other counties, miscellaneous sources and total receipts, loans made, loans absorbed by certificates of purchase, losses sustained by county, and balance. Arr. alph. by names of funds. No index. Hdw. 320 pp. 18 x 16 x 3. Aud. vt.

269. REGISTER OF SCHOOL FUND ORDERS, 1853-90. 2 vols. Title varies: Register of Orders, Trust Funds, 1853-65, 1 vol. Discontinued.

Record of orders drawn on treasurer for disbursement of school and trust funds, showing date, number, and amount of order; and names of payee and fund. Arr. chron. by dates of orders. No index. Hdw. 200 pp. 18 x 12 x 1½. Bsmt. stor. rm.

OFFICIAL BONDS

(See also entries 30-36)

270. MISCELLANEOUS BONDS, 1889-. 2 f. b. (42, 80).

Original bonds of county and township officials, showing same information as in entry 272. Arr. alph. by names of officials. For index, see entry 3. Hdw. and typed. 10 x 5 x 14. Aud. vt.

271. BONDS T[o]W[nshi]P TRUSTEES AND ASSESSORS, 1897-. 1 f. b. (79).

Original bonds posted by township trustees and assessors, showing date, amount, and conditions of bond; and names of official, township, and sureties. Arr. chron. by dates of bonds. For index, see entry 3. Hdw. 10 x 5 x 14. Aud. vt.

272. OFFICIAL BOND RECORD, 1912-. 2 vols. (2, 1). 1853-1911 in Commissioner's Record, entry 2.

Record of bonds posted by county and township officials, showing date, amount, and conditions of bond; and names of official and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of officials and sureties. Typed. 500 pp. 20 x 16 x 3. Aud. vt.

MISCELLANEOUS

273. ENUMERATION OF WHITE AND COLORED [MALES], 1877-. 80 vols. (labeled by years).

Sexennial enumeration of white and colored male inhabitants over 21 years of age, showing date of enumeration; name, age, address, and color of registrant; and names of township and assessor. Arr. alph. by names of registrants. No index. Hdw. 50 pp. 16 x 10 x ½. Pub. welf. off.

XVI. REGISTRATION OFFICER

LEGAL STATUS

The clerk of the circuit court serves *ex officio* as the registration officer of Jay County, under the mandatory provisions of an act of 1933, as amended in 1935.¹

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected, as nearly as practicable, in equal numbers, from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. The clerk of each city and town in the county is an *ex officio* deputy registration officer. A list of all deputy registration officers is kept in the office of the clerk of the circuit court, and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.² For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives compensation in an amount (fixed by the board of county commissioners) not exceeding 4 cents. Each deputy registration officer receives compensation in an amount (fixed by the board of county commissioners) not exceeding 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court. The board of county commissioners authorizes reasonable compensation to the clerk of the circuit court for the additional services rendered by him as registration officer.³

The constitution prescribes the qualifications of voters.⁴ Amendments of the constitution in 1881 and 1926 directed the general assembly to provide for the registration of all persons entitled to vote.⁵

¹ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

² *Ibid.*

³ Acts 1933, 1935; Burns, 1939 suppl., 29-306, 29-329; Baldwin, 1935 suppl., 7304, 7327.

⁴ Const. 1851, art. 2, sec. 2.

⁵ *Ibid.*, sec. 14 (as amended in 1881 and 1926).

Many laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the township trustee and two freeholders appointed by the board of commissioners,⁶ was repealed in 1869.⁷ Acts of 1889⁸ and 1891,⁹ providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890¹⁰ and 1892,¹¹ respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),¹² was repealed in 1917.¹³ An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one from each of the two major political parties),¹⁴ was repealed in 1919.¹⁵ An act of 1919, creating precinct registration boards,¹⁶ was amended by an act of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;¹⁷ and both acts were repealed in 1927.¹⁸ From 1927 until 1933 there was no registration system. Acts of 1933 and 1935 established the present system of registration.¹⁹

FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the

⁶ Acts 1867, ch. 51, sec. 2.

⁷ Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

⁸ Acts 1889, ch. 87, sec. 13.

⁹ Acts 1891, ch. 144, sec. 1.

¹⁰ *Morris v. Powell* (1890), 125 Ind. 281, 25 N. E. 221.

¹¹ *Brewer v. McClelland* (1892), 144 Ind. 423, 32 N. E. 299.

¹² Acts 1911, ch. 150, secs. 3-15.

¹³ Acts 1917, ch. 139, sec. 47.

¹⁴ *Ibid.*, sec. 4.

¹⁵ Acts 1919, ch. 150, sec. 1.

¹⁶ *Ibid.*, ch. 186, sec. 4.

¹⁷ Acts 1925, ch. 136, sec. 1.

¹⁸ Acts 1927, ch. 195, sec. 1.

¹⁹ Acts 1933, ch. 178. Acts 1935, ch. 221.

The 1933 act was held constitutional. *Blue v. State ex rel. Brown* (1934), 206 Ind. 98, 188 N. E. 583.

state may participate. Such registration must be made at least 29 days before the election.²⁰ On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same ward or precinct), have resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days.²¹

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.²² The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large numbers of voters without reference to precincts.²³ They can administer all oaths required by the registration laws.²⁴

The "official registration books" consist of the original affidavits of registration²⁵ and constitute a permanent registration record. The clerk also keeps a duplicate set of these affidavits.²⁶ The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the clerk as soon as they are completed.²⁷ Registration supplies

²⁰ Acts 1933; Burns 29-301, 29-307, 29-335; Baldwin 7299, 7305, 7333. Acts 1933, 1935; Burns, 1939 suppl., 29-336; Baldwin, 1935 suppl., 7334.

²¹ Acts 1933; Burns 29-328; Baldwin 7326.

²² Acts 1933; Burns 29-309; Baldwin 7307.

Manner of registering. Acts 1933; Burns 29-308 to 29-313; Baldwin 7306 to 7311.

Penalty for false statement, false signature, or violation of registration law. Acts 1933;

Burns 29-339; Baldwin 7337.

²³ Acts 1933, 1935; Burns, 1939 suppl., 29-311; Baldwin, 1935 suppl., 7309.

²⁴ Acts 1933, 1935; Burns, 1939 suppl., 29-306; Baldwin, 1935 suppl., 7304.

²⁵ Acts 1933, 1935; Burns, 1939 suppl., 29-313; Baldwin, 1935 suppl., 7311. Acts 1933; Burns 29-315, 29-316; Baldwin 7313, 7314.

²⁶ Acts 1933; Burns 29-302; Baldwin 7300.

²⁷ Acts 1933, 1935; Burns, 1939 suppl., 29-317; Baldwin, 1935 suppl., 7315.

and the original affidavits of registration are delivered by the clerk to the election inspectors for use at the voting places on election day, and are returned to the clerk when the precinct officials complete their duties.²⁸

Except as hereinafter otherwise stated, any voter whose name was placed on the registration books of any precinct in this state after May 21, 1933 while such voter was a resident of that precinct is not required to register again, so long as (a) he continues to reside in the same county in which he is registered and (b) is not disfranchised for any cause prescribed by the laws of the state and (c) his registration is not canceled.²⁹ The clerk will cancel the registration of any voter who requests such cancellation.³⁰

On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If a voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a printed form authorizing the cancellation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.³¹

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.³²

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof) that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.³³

²⁸ Acts 1933; Burns 29-316, 29-331; Baldwin 7314, 7329.

²⁹ Acts 1933; Burns 29-303, 29-308; Baldwin 7301, 7306.

³⁰ Acts 1933; Burns 29-324, 29-327; Baldwin 7322, 7325.

³¹ Acts 1933, 1935; Burns, 1939 suppl., 29-314; Baldwin, 1935 suppl., 7312.

³² Acts 1933; Burns 29-318, 29-319; Baldwin 7316, 7317.

³³ Acts 1933; Burns 29-326, 29-327; Baldwin 7324, 7325.

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.³⁴

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.³⁵

During the month of January following such general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be canceled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.³⁶

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers, and the clerk prepares a list of all disfranchised voters.³⁷

If the board of county commissioners determines that the registration books of any precinct have been destroyed or mutilated or are inaccessible or are for any other reasonable

³⁴ Acts 1933; Burns 29-330; Baldwin 7328.

³⁵ Acts 1933; Burns 29-325, 29-327; Baldwin 7323, 7325.

³⁶ Acts 1933; Burns 29-320; Baldwin 7318.

³⁷ Acts 1933; Burns 29-321, 29-322, 29-327; Baldwin 7319, 7320, 7325.

cause unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.³⁸

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.³⁹

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the state board of election commissioners for the purpose of uniformity in the registration records of the state.⁴⁰

274. [MASTER REGISTRATION FILE], 1934-. 180 file trays. Registration cards of all voters in county, showing date of registration; name, address, age, and place of birth of voter; names of registration officer, witnesses, and township; and precinct and ward numbers. Arr. alph. by names of voters. No index. Hdw. 1 x 8 x 30. Clk. pvt. off.

XVII. BOARD OF PRIMARY ELECTION COMMISSIONERS

LEGAL STATUS

The board of primary election commissioners of Jay County exists under the mandatory provisions of an act of 1915, as amended in 1917. The board is composed of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof throughout the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers and county board of election commissioners during the

³⁸ Acts 1933; Burns 29-304; Baldwin 7302.

³⁹ Acts 1933; Burns 29-305; Baldwin 7303.

⁴⁰ Acts 1933; Burns 29-334; Baldwin 7332.

¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

² Const. 1851, art. 6, secs. 4, 6.

calendar year in which they were appointed,³ must not hold any other appointive or elective public office,⁴ and must take an oath to support the state and federal constitutions and faithfully discharge their duties.⁵ Each member of the board is allowed \$125 for his services at any primary election.⁶

For sufficient legal grounds any member of the board of primary election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁷ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁸ A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.⁹

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus, which could be a meeting of all the voters of the party in the precinct or other political units. Out of the latter developed the party convention—an assembly of official delegates chosen by the electors of the party at primary elections.¹⁰

Indiana was one of the first states to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of a political party to hold a primary election, under the control of the chairman who certified the names of the nominees to the county board of election commissioners.¹¹

³ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners."

⁴ Acts 1915, 1917; Burns 29-512; Baldwin 7198.

⁵ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁶ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1935, Burns, 1939 suppl., 29-1014; Baldwin, 1937 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, see the essay entitled "Clerk of the Circuit Court."

¹⁰ Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System of Nomination* (Indianapolis, 1930), 21.

¹¹ Acts 1889, ch. 87, secs. 17, 18, 26.

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.¹²

An act of 1907 prescribed a compulsory direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.¹³

FUNCTIONS AND RECORDS

The present primary election law is mandatory as to each political party casting in the county for its candidate for secretary of state 10 percent of the aggregate vote cast in the county for all candidates for secretary of state at the last preceding general election. This law provides for the nomination of candidates and the election of precinct committeemen and state convention delegates of all such political parties, all in one primary election held biennially, at the same time and place, on the 1st Tuesday after the 1st Monday in May, in the even-numbered years.¹⁴

¹² Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

¹³ Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

¹⁴ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511, 29-512; Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1939 suppl., 29-532; Baldwin, 1939 suppl., 7218.

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries)¹⁵—the names of candidates being arranged thereon in alphabetical order.¹⁶ At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for the tickets of the other parties, but all tickets are uniform in size.¹⁷

Between 30 and 60 days before any primary election the declarations of candidacy for the office of United States Senators and Representatives, state senators and representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the secretary of state and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.¹⁸ Nominations for delegates to the state conventions of the respective political parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.¹⁹

Primary elections are conducted by the following officials in each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one poll-book holder for each political party participating in the

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." *State ex rel. Democratic Central Committee v. Superior Court* (1938), 214 Ind. 322, 15 N. E. (2d) 379.

¹⁵ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

¹⁶ Acts 1915, 1937; Burns, 1939 suppl., 29-515; Baldwin, 1937 suppl., 7201.

¹⁷ Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

¹⁸ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1933, 1935; Burns, 1939 suppl., 29-513; Baldwin, 1935 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1939 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1933; Burns 29-1807; Baldwin 11639.

The prosecuting attorney is a judicial officer. *State ex rel. Freed v. Circuit Court* (1938), 214 Ind. 152, 14 N. E. (2d) 910; *State ex rel. Spencer v. Criminal Court* (1938), 214 Ind. 551, 15 N. E. (2d) 1020.

¹⁹ Acts 1915, 1939; Burns, 1939 suppl., 29-532; Baldwin, 1939 suppl., 7218.

election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote in the county for secretary of state at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all of the parties participating in the election. The sheriffs and poll-book holders are appointed in the manner in which they are appointed for general elections. Each of these officials is allowed \$3 per day for his services rendered in connection with a primary election.²⁰ The board of primary election commissioners may employ all necessary clerical assistants.²¹

The statutory provisions governing the manner of conducting general elections apply to all primary elections.²² All expenses of conducting primary elections are paid from public funds.²³

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and are then destroyed, unless litigation requires preservation for a longer time.²⁴

275. [ELECTION RECORD PRIMARY], 1916-. In Election Register, entry 277.

Record of primary elections, showing dates of election and certification of inspector; names of candidates, inspector, primary election commissioners, and township; precinct number; and number of ballots printed, distributed, and returned.

XVIII. COUNTY BOARD OF CANVASSERS

LEGAL STATUS

The board of canvassers of Jay County exists under the

²⁰ Acts 1915, 1917; Burns 29-505, 29-507, 29-519; Baldwin 7191, 7193, 7205. Acts 1929, 1933; Burns 29-804 to 29-807; Baldwin 7093 to 7096. *Finerty v. Bryan* (1938), 214 Ind. 570, 16 N. E. (2d) 882. See the essay entitled "County Board of Election Commissioners."

²¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

²² Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

²³ Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

²⁴ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

mandatory provisions of an act of 1905, as amended in 1927. The county board which controls the holding of an election (board of primary election commissioners or county board of election commissioners) must also serve as the county board of canvassers at that election.¹ The board elects its own chairman, and the clerk of the circuit court acts as its clerk.²

Before 1843 the election judges and inspectors canvassed the votes and certified the results of the election.³ The board of canvassers, established in 1843, consisted of the inspectors from the several townships, who selected one of its members as chairman. The clerk of the circuit court served as clerk. This board was continued until 1905.⁴

FUNCTIONS AND RECORDS

Each precinct board of election,⁵ after closing the polls in its precinct,⁶ views the ballots cast in that precinct; counts those ballots which are legal; rejects those ballots which are illegal; marks on each ballot the word "counted" or the words "not counted"; makes notations as to rulings on protests; lists the number of votes counted in favor of each candidate; lists the number of votes counted for and against proposed constitutional amendments and other questions submitted to the voters for decision; and transmits in sealed bags to the county board of canvassers all ballots cast, ballots uncast, lists, tally papers, memoranda, and certificates.⁷

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each general election, in the courtroom of the circuit court; to canvass and estimate the certificates, poll lists, and tally papers

¹ Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

The amendment of 1927 merely added a provision applicable only to Marion County.

² Acts 1905; Burns 29-1402; Baldwin 7378.

³ Acts 1816-17, ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. Laws 1824, ch. 35, secs. 11, 12. Rev. Laws 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14.

⁴ Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, sec. 38.

⁵ The organization of the precinct boards is discussed in the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

⁶ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

⁷ Primary elections. Acts 1915, 1917; Burns 29-525; Baldwin 7211.

General elections. Acts 1897, 1901, 1909; Burns 29-1301; Baldwin 7147.

returned by each precinct board of election in the county;⁸ to compare and examine the papers entrusted to it; to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates elected for the county, and each city and township thereof, and the determination of any proposed constitutional amendment or other question submitted to the voters.⁹

In case of a tie vote for any office, the board declares that no person was elected for that office; and the clerk must certify the facts to the tribunal or officer required to fill vacancies in such office, or the clerk must issue a writ of election to fill the office, as the case may require.¹⁰

In case of a disagreement among the members of the county board of canvassers as to how the vote of any precinct shall be counted, the matter in dispute must be reported immediately to the judge of the circuit court for immediate determination.¹¹

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.¹²

The board of canvassers employs necessary clerical assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.¹³

⁸ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁹ Acts 1905; Burns 29-1404, 29-1405, 29-1407; Baldwin 7380, 7381, 7383. Moore v. Kessler (1877), 59 Ind. 152.

Duty to disregard ballots improperly marked by voters. Craney v. Traylor (1938), 214 Ind. 542, 16 N. E. (2d) 845.

Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503 to 29-1505; Baldwin 7180 to 7182.

Judges, prosecuting attorney, state officers, and federal officers. Acts 1881 (Spec. Sess.); Burns 29-1506 to 29-1509; Baldwin 7183 to 7186.

Constitutional amendments. Const. 1851, art. 16, secs. 1, 2. Acts 1889; Burns 29-1201, 29-1202; Baldwin 7259, 7258. Acts 1911; Burns 29-1203 to 29-1207; Baldwin 7253 to 7257. In re Todd (1935), 208 Ind. 168, 193 N. E. 865.

¹⁰ Acts 1905; Burns 29-1406; Baldwin 7382.

Tie vote for state legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1505; Baldwin 7182.

¹¹ Acts 1905; Burns 29-1409; Baldwin 7385.

¹² Acts 1905; Burns 29-1408; Baldwin 7384.

¹³ Acts 1920 (Spec. Sess.); Burns 29-913; Baldwin 7158.

The canvass of votes in primary¹⁴ and special¹⁵ elections, including votes cast for city¹⁶ and township officers,¹⁷ is made in the same manner as in the general election.

The ballots cast, ballots uncast, certificates, statement of all votes tabulated, canvass sheets, poll books, and tally papers are delivered to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after 6 months unless litigation requires longer preservation.¹⁸

276. [ELECTION RETURNS], 1906-. In Election Register, entry 277.

Record of votes cast in primary and general elections, showing date of election; names of candidates, offices, and members of board of canvassers; number of votes cast for each candidate in each precinct; and total number of votes cast for each candidate.

XIX. COUNTY BOARD OF ELECTION COMMISSIONERS

LEGAL STATUS

The board of election commissioners of Jay County exists under the mandatory provisions of an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof throughout the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers, and must take an oath to support the state and federal constitutions and faithfully discharge their

¹⁴ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245.

¹⁵ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin 7249.

¹⁶ Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933, Burns 29-1803, 29-1807; Baldwin 11635, 11639.

¹⁷ Acts 1933; Burns 29-1903; Baldwin 7252.

¹⁸ Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

¹ Acts 1889; Burns 29-1002; Baldwin 7109.

² Const. 1851, art. 6, secs. 4, 6.

duties.³ Each member of the board is allowed \$125 for his services at any general or special election.⁴

For sufficient legal grounds any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The clerk of the circuit court fills vacancies as to members appointed by him.⁷

With the organization of Jay County in 1836⁸ the board of county commissioners laid off townships.⁹ An election inspector for each township was elected by the voters thereof.¹⁰ Blank forms of pollbooks and election returns were delivered by the sheriff to these inspectors before the election.¹¹ After 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which offices were to be filled at the election. The sheriff posted a copy of this certificate at each usual place of holding elections, published it in some newspaper of the county, and delivered a copy to each township clerk¹² or trustee.¹³ The board of county commissioners designated the precincts,¹⁴ and furnished supplies (including ballot boxes but not ballots).¹⁵ After 1881

³ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court, see the essay entitled "Clerk of the Circuit Court."

⁴ Acts 1535; Burns, 1939 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell* (1936), 210 Ind. 486, 1 N. E. (2d) 122.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

⁸ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

⁹ Acts 1817-18 (general), ch. 17, sec. 2.

¹⁰ Rev. Laws 1831, ch. 20, sec. 20.

¹¹ Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1. Rev. Laws 1824, ch. 35, sec. 1.

¹² 1 Rev. Stat. 1852, ch. 31, sec. 2.

¹³ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

¹⁴ 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1881 (Spec. Sess.), ch. 47, sec. 8.

¹⁵ 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

the auditor furnished printed forms (but not ballots)¹⁶ and the board of county commissioners furnished the ballot boxes.¹⁷ Before 1889 voting was by ballot furnished by the voter.¹⁸ The president of the board of township trustees from 1853 to 1859¹⁹—the township trustee since 1859—served ex officio as inspector of elections²⁰ in the precinct in which he resided,²¹ and the board of county commissioners appointed inspectors in all additional precincts.²² The election board of the precinct was composed of the inspector, election judges, and poll clerks. The judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.²³ After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.²⁴

Indiana, in 1889, was one of the first states to adopt the Australian ballot—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.²⁵

FUNCTIONS AND RECORDS

The constitution fixes the date of general elections as the 1st Tuesday after the 1st Monday in November,²⁶ and an act of the general assembly provides that they be conducted biennially in the even-numbered years.²⁷ At least 20 days before the election the clerk of the circuit court makes 'a

¹⁶ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁷ *Ibid.*, sec. 18.

¹⁸ Const. 1816, art. 6, sec. 2. Const. 1851, art. 2, sec. 13. Acts 1816-17, ch. 9, secs. 6-8, 11. Acts 1817-18 (general), ch. 15, sec. 8. Rev. Laws 1824, ch. 35, secs. 6-8, 11. Rev. Laws 1831, ch. 32, secs. 6-8, 11. Rev. Stat. 1838, ch. 32, secs. 6-8, 13. Rev. Stat. 1843, ch. 5, secs. 30-33, 40, 41, 44. 1 Rev. Stat. 1852, ch. 31, sec. 17. Acts 1881 (Spec. Sess.), ch. 47, sec. 23.

¹⁹ 1 Rev. Stat. 1852, ch. 31, sec. 3.

²⁰ Acts 1859; Burns 65-105; Baldwin 16065. *Holmes v. Board of County Comrs.* (1922), 78 Ind. App. 206, 135 N. E. 154.

²¹ Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

²² 1 Rev. Stat. 1852, ch. 31, sec. 4.

²³ Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4.

²⁴ Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁵ Acts 1889, ch. 87, secs. 18, 26.

²⁶ Const. 1851, art. 2, sec. 14 (as amended in 1881).

²⁷ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

certificate stating which offices are to be filled at the election. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.²⁸ The constitution further provides that all elections by the people must be by ballot.²⁹ This provision does not prevent the use of voting machines³⁰ (to be provided by the board of county commissioners).³¹

The board of county commissioners establishes the precincts³² and provides all polling places and ballot boxes³³ and the auditor furnishes blank pollbooks and other forms to the inspectors.³⁴

The county board of election commissioners supervises general elections.³⁵ The state board of election commissioners prepares and distributes to the county clerks the ballots for federal offices and for offices and questions to be voted on by the voters of the whole state. The county board of election commissioners prepares and distributes all other ballots used in the county (except for town elections).³⁶ Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the state at the last preceding general election, and whose nominations have been duly certified to the clerk of the

²⁸ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082. *Parmater v. State ex rel. Drake* (1884), 102 Ind. 90, 3 N. E. 382.

²⁹ Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Craney v. Traylor* (1938), 214 Ind. 542, 16 N. E. (2d) 845.

³⁰ *Spickerman v. Goddard* (1914), 182 Ind. 523, 107 N. E. 2.

³¹ Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³² Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

³³ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

³⁴ Acts 1889; Burns 29-808; Baldwin 7097.

³⁵ Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

³⁶ Acts 1889; Burns 29-1001 to 29-1003; Baldwin 7108 to 7110. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Acts 1889, 1891, 1907; Burns 29-1109; Baldwin 7124.

Ballot label for voting machines. Acts 1901; Burns 29-2410; Baldwin 7536.

circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one-half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.³⁷ Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, state, or national government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.³⁸

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election or is a candidate or a relative of a candidate at that election. The township trustee is *ex officio* inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairman of the party casting the highest number of votes in the county for secretary of state in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are appointed by the board of election commissioners on nominations made by the county chairmen of the two major political parties.³⁹ For their services at general elections the precinct election officials are compensated as follows: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$3. The township trustee receives no compensation for his services as election inspector.⁴⁰ Each political party may appoint one challenger and one pollbook holder for each precinct, and must pay each of

³⁷ Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State *ex rel.* Sides (1897), 148 Ind. 675, 48 N. E. 226; State *ex rel.* Garn v. Board of Election Comrs. (1906), 167 Ind. 276, 78 N. E. 1016.

³⁸ Acts 1935; Burns, 1939 suppl., 29-1015; Baldwin, 1935 suppl., 7120-1.

³⁹ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁴⁰ Acts 1920 (Spec. Sess.), 1933; Burns 29-910; Baldwin 7155. Holmes v. Board of County Comrs. (1922), 78 Ind. App. 206, 135 N. E. 154.

them compensation not exceeding \$3. These employees receive no compensation from public funds.⁴¹

Since 1933, city⁴² and township⁴³ elections have been held at the time of the general election. They are under the supervision of the county board of election commissioners,⁴⁴ as are all special elections.⁴⁵

Elections are open from 6 A. M. until 4 P. M., after which time the precinct election board may close the election in any precinct at any time when all the electors of that precinct have voted or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 P. M. unless previously closed as aforesaid.⁴⁶ All pencils used in marking the ballots must be destroyed before the counting of ballots begins.⁴⁷

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.⁴⁸

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court for preservation as provided by statute.⁴⁹

277. ELECTION REGISTER, 1890—. 3 vols. (one vol. not labeled, 4, 5).

Record of general elections, showing dates of election and certification of inspector; names of candidates, inspector, election commissioners, and township; precinct numbers; and number of ballots printed, distributed, and returned. Also contains: [Election Record, Primary], 1916—, entry 275; [Election Returns], 1906—, entry 276. Arr. chron. by dates of elections. No index. Hdw. 300 pp. 18 x 12 x 3. Clk. off.

⁴¹ Acts 1929; Burns 29-806; Baldwin 7095.

⁴² Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801; Baldwin 11632.

⁴³ Acts 1933, 1935; Burns, 1939 suppl., 29-1901; Baldwin, 1935 suppl., 7230.

⁴⁴ Acts 1933; Burns 29-1803; Baldwin 11635.

⁴⁵ Acts 1889; Burns 29-1611; Baldwin 7169; Acts 1881; Burns 29-1704; Baldwin 7249.

⁴⁶ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103, Baldwin 7103.

⁴⁷ Acts 1915; Burns 29-1305; Baldwin 7457.

⁴⁸ Acts 1905; Burns 29-1408; Baldwin 7384.

⁴⁹ Rev. Laws 1824, ch. 35, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157.

Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. State ex rel. Kollmeyer v. Baker (1932), 204 Ind. 18, 182 N. E. 537.

XX. COUNTY BOARD OF EDUCATION

LEGAL STATUS

The county board of education exists under the mandatory provisions of an act of 1873, as amended in 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before 1877 all the school trustees of each city and town in the county were also included as members of the board.¹

Semiannual meetings of the board are held at the office of the county superintendent of schools on the 1st day of May and September. A majority of the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members.²

FUNCTIONS AND RECORDS

The county board of education considers the general needs of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and other supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by a regulation of the Indiana State Board of Education); directs the care and management of township libraries; and adopts textbooks for the schools in the county, except in cities. The state board of education has broad power to adopt textbooks which must be used in all

¹ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. *Opinions of the Attorney General of Indiana, 1933*, p. 551.

Section 28-801 aforesaid provides: "The county superintendent [of schools], the trustees of the townships, and the chairman of the school trustees of each town and city of the county shall constitute a county board of education."

Section 28-1201 aforesaid provides that the common council of each city and the board of trustees of each town shall "elect three school trustees" and that "such trustees shall constitute the school board of the city or town" and that "they shall . . . organize by electing one of their number president, one secretary and one treasurer."

The cited opinion of the attorney general holds that the language "chairman of the school trustees of each town and city of the county" refers to the president of the town or city school board.

² Acts 1873, 1877; Burns 28-801; Baldwin 5983.

If the 1st day of the month is Sunday, the semiannual meeting is held the next day. *Ibid.*

the public schools in the state, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the state board. No textbook can be changed by the county board of education within 6 years after its adoption, except by the unanimous vote of all the members of the board.³

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and sell them to the pupils at cost, plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent them to the pupils at an annual rental not to exceed 25 percent of the retail price.⁴

Annually the board may appoint a school attendance officer for the county, known as the "county attendance officer." From 1897 to 1913 he was known as the "truant officer." The county superintendent of schools must annually nominate some person to be appointed county attendance officer, and must perform the duties of that office if the board makes no such appointment.⁵

Before April 15 each year, the board appoints one of its members to serve on the county board of tax adjustment.⁶

The secretary of the board keeps a complete record of its meetings and proceedings.⁷

278. RECORD OF BOARD OF EDUCATION, 1920-. 1 vol.

Minutes of meetings of board of education, showing date and place of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 250 pp. 18 x 14 x 2. Supt. off.

³ *Ibid.* Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675. Interview of February 2, 1940 with Floyd I. McMurray, state superintendent of public instruction.

⁴ Acts 1921; Burns 28-614; Baldwin 6692. Acts 1935; Burns, 1939 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

Traveling expenses of attendance officer. *Opinions of the Attorney General of Indiana, 1939*, p. 132.

⁶ Acts 1937; Burns, 1939 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷ Interview of February 2, 1940 with Floyd I. McMurray, state superintendent of public instruction.

XXI. COUNTY SUPERINTENDENT OF SCHOOLS

LEGAL STATUS

The office of county superintendent of schools was established by an act of 1873 and was reestablished by an act of 1899.¹ The county superintendent of schools is elected for a 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office and the auditor acts as clerk of the election. In case of a tie vote the auditor casts the deciding vote.² To be eligible for this office a person must have had 5 years' successful experience as a teacher and must hold a first or second grade superintendent's license.³ The superintendent must post bond in the amount of \$5,000 (to be approved by and filed with the auditor) and take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁴

Statutes provide that the county superintendent of schools shall receive from the county a regular salary of \$1,760 per year, that his salary may be increased by the county council after request therefor by a majority of the township trustees,⁵

¹ Acts 1873, ch. 25. Acts 1899, ch. 143.

² Acts 1873, ch. 25, secs. 2-4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. *State ex rel. Nebecker v. Sutton* (1884), 99 Ind. 300; *State ex rel. Laughlin v. Porter* (1888), 113 Ind. 79, 14 N. E. 883; *State ex rel. Williams v. Edwards* (1888), 114 Ind. 581, 16 N. E. 627; *State ex rel. Drummond v. Dillon* (1890), 125 Ind. 65, 25 N. E. 136; *State ex rel. Morris v. McFarland* (1898), 149 Ind. 266, 49 N. E. 5.

A township trustee cannot participate in the election if he is a candidate for the office. *Horning v. State ex rel. Gamble* (1888), 116 Ind. 458, 19 N. E. 151. *Opinions of the Attorney General of Indiana*, 1933, p. 229.

³ Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1939 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

Residence and citizenship. *State ex rel. Jeffries v. Kilroy* (1882), 86 Ind. 118. *Opinions of the Attorney General of Indiana*, 1907, p. 163; 1929, p. 242; 1933, pp. 89, 236.

⁴ Const. 1851, art. 15, sec. 4. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

⁵ Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1939 suppl., 49-1014; Baldwin, 1939 suppl., 7544. *Opinions of the Attorney General of Indiana*, 1938, p. 126.

The constitution provides that "the salary of any officer fixed by this constitution or by law" shall not "be increased during the term for which such officer was elected or appointed," and that the general assembly shall not pass local or special laws "in relation to fees or salaries; except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1926).

and that he is to be reimbursed for his traveling expenses (not to exceed \$800 per year).⁶ The board of commissioners must provide and furnish an office for the county superintendent and allow and pay all costs incurred by him for postage, stationery, and records required in the performance of his official duties.⁷

The county superintendent of schools is a member and beneficiary of the Indiana State Teachers' Retirement Fund.⁸ He cannot conduct or assist in conducting any "private or county normal school in this state" or receive any "pay or emolument from the management of such school."⁹ He may serve as a member of the state board of education if appointed to that board by the governor.¹⁰ He is a member of the county board of education and presides at its meetings.¹¹

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the superintendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill the vacancy must

An increase in the compensation of the county superintendent of schools cannot become effective during the term of the incumbent. *Opinions of the Attorney General of Indiana, 1939, p. 132.*

The county superintendent of schools cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. *Edington v. Board of County Comrs. (1938), 105 Ind. App. 156, 13 N. E. (2d) 895.*

⁶ Acts 1911, ch. 94, sec. 3. Acts 1921, ch. 54, sec. 3. Acts 1935; Burns, 1939 suppl., 28-708; Baldwin, 1937 suppl., 5934.

⁷ Acts 1899; Burns 28-707; Baldwin 5946.

⁸ Acts 1915, 1921, 1937, 1939; Burns, 1939 suppl., 28-4511; Baldwin, 1939 suppl., 6739.

⁹ Acts 1901; Burns 28-716 to 28-718; Baldwin 5954.

¹⁰ Acts 1913; Burns 28-401; Baldwin 5906.

¹¹ See the essay entitled "County Board of Education."

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8, Acts 1899; Burns 28-703; Baldwin 5932. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug (1879), 81 Ind. 327; Hufford v. Conover (1894), 139 Ind. 151, 38 N. E. 328.*

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The county superintendent of schools, with the approval of the township trustees, may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.¹⁵

An act of 1838 provided for the annual appointment, by the judge of the circuit court, of three county school examiners, to examine common school teachers and certify as to their qualifications.¹⁶ A superseding act of 1843 provided that the school examiners be appointed for indefinite terms.¹⁷ An act of 1852 (effective in 1853) authorized the state superintendent of public instruction, in person or by deputy, to issue teachers' licenses after an examination of the applicants.¹⁸ An act of 1853 authorized the board of commissioners to appoint, annually, one to three school examiners for the county, each to serve for a 1-year term. These county school examiners examined applicants for licenses as common school teachers, issued such licenses, kept records of the licenses issued, and made an annual report to the state superintendent of public instruction.¹⁹ Acts of 1861 and 1865, superseding the act of 1853, provided for the appointment of one county school examiner for a 3-year term.²⁰ An act of 1873 changed the officer's title to "county superintendent," transferred to the township trustees the power of appointment, made the county superintendent more responsible to the state superintendent of public instruction, and gave the county superintendent advisory supervision of the schools of the county.²¹ An act of 1927 changed the title of this officer to "county superintendent of schools."²² An act of 1923 gave the state board of education exclusive jurisdiction to license school superintendents, supervisors, principals, teachers, attendance officers, and all other regular school employees.²³

¹⁴ Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

¹⁵ Acts 1911, 1921; Burns 28-709; Baldwin 5937.

¹⁶ Rev. Stat. 1838, ch. 94 (14), secs. 3, 5, 6, 14, 15.

¹⁷ Rev. Stat. 1843, ch. 15, secs. 133-135 (repealed by 1 Rev. Stat. 1852, ch. 92, sec. 1).

¹⁸ 1 Rev. Stat. 1852, ch. 98, sec. 85.

¹⁹ Acts 1853, ch. 106, secs. 6-8.

²⁰ Acts 1861, ch. 41, secs. 32, 33. Acts 1865, ch. 1, secs. 33-43.

²¹ Acts 1873, ch. 25, secs. 2-4.

²² Acts 1927, ch. 142, secs. 1, 2. Acts 1935, ch. 258, secs. 1, 2.

²³ Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928. Interview of November 14, 1939 with Floyd I. McMurray, state superintendent of public instruction.

FUNCTIONS AND RECORDS

The county superintendent of schools is an officer of the public school system of Indiana,²⁴ and constitutes the medium between the state superintendent of public instruction and the "subordinate school officers and the schools."²⁵

The county superintendent exercises general supervision of those schools in Jay County which are not within incorporated cities and towns;²⁶ carries out the orders of the state board of education and the state superintendent of public instruction; visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their scholastic standards as uniformly as practicable;²⁷ obtains the aid of the county agricultural agent in giving practical education in agriculture and domestic science;²⁸ cooperates with the state board of education in carrying out the provisions of the law requiring the teaching of the nature of alcoholic drinks and narcotics and their effects on the human system;²⁹ provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; and attends commencements of the common and high schools of the townships and towns.³⁰

The county superintendent keeps a complete record of licenses held by the school teachers, county attendance officer, and other regular school employees working in the county (other than those of town and city schools);³¹ reports to the school corporations as to teachers' preparation, experience, and licenses before they are employed;³² conducts teachers' meetings and institutes;³³ notifies teachers of their "duties and obligations" under the law concerning teachers'

²⁴ State *ex rel.* Osborn v. Eddington (1935), 208 Ind. 160, 195 N. E. 92.

²⁵ Acts 1899; Burns 28-704; Baldwin 5938.

²⁶ Acts 1899; Burns 28-704, 28-705; Baldwin 5938, 5940. Acts 1873; Burns 28-1401; Baldwin 5973.

²⁷ Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

²⁸ Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

²⁹ Acts 1933; Burns 28-3410; Baldwin 6021.

³⁰ Acts 1899; Burns 28-706; Baldwin 5942.

³¹ This record shows the kind and grade of licenses, the success grades, the date of first employment, and monthly or annual salary. Acts 1923; Burns 28-4217; Baldwin 5928.

³² Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

³³ Acts 1865, ch. 1, secs. 159-161. Acts 1899; Burns 28-704, 28-706; Baldwin 5938, 5942. Acts 1907, 1929, 1933; Burns 28-4401, 28-4402; Baldwin 6728, 6725.

pensions; sees that these "duties and obligations" are stated in the teachers' contracts; and reports to the Board of Trustees of the Indiana State Teachers' Retirement Fund information needed by that board for the administration of the retirement fund.³⁴

The county superintendent of schools annually nominates a county attendance officer to be appointed by the county board of education; serves as such attendance officer if one is not appointed, in which event the county superintendent may designate one or more teachers to serve as assistant attendance officers; supervises the work of the county attendance officer; authorizes or prosecutes legal proceedings for the enforcement of the school attendance laws;³⁵ issues work permits and absence permits for children;³⁶ and arranges for examination of children by physicians and other experts as a basis for the establishment of special classes for children who are physically handicapped or mentally retarded, and those regarded as "problem children."³⁷

The county superintendent authorizes the removal and relocation of township school buildings;³⁸ acts with the county assessor and auditor in determining the value of school buildings and equipment to be purchased by a township from a school town;³⁹ appoints depository merchants and dealers for the sale of schoolbooks;⁴⁰ and joins with each township trustee in making regulations concerning the free use of school books in the several school libraries.⁴¹

The county superintendent examines and verifies certificates, presented by township trustees, for aid from the state common school relief fund;⁴² receives from the township

³⁴ These reports must show the teachers' pension account numbers and such other information as is required by the pension board. Acts 1915, 1921, 1937, 1939; Burns, 1939 suppl., 28-4511 (g); Baldwin, 1939 suppl., 6739 (g).

³⁵ Acts 1921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

³⁶ Acts 1921, 1929; Burns 28-505, 28-519; Baldwin 6698, 6712.

Mental unfitness. In re Morton (1922), 79 Ind. App. 5, 137 N. E. 62.

³⁷ Acts 1927; Burns 28-3502; Baldwin 6077.

³⁸ Acts 1893; Burns 28-2701; Baldwin 6104.

³⁹ Acts 1919; Burns 28-1209; Baldwin 6247.

⁴⁰ Acts 1907, 1913; Burns 28-610; Baldwin 6681.

The county superintendent cannot "deal in school books in his official capacity." Acts 1907; Burns 28-611; Baldwin 6682.

⁴¹ Acts 1935; Burns, 1939 suppl., 28-628; Baldwin, 1935 suppl., 6677-5.

⁴² Acts 1921, ch. 201, secs. 4, 5. Acts 1931, ch. 163, secs. 4, 5, 13. Acts 1933, ch. 167, sec. 12. Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

trustees and the school trustees of cities and towns, copies of their reports to the board of commissioners concerning "special school revenue" and the "school revenue for tuition";⁴³ reports to the county auditor the basis for the apportionment of school revenue;⁴⁴ receives semiannual reports from the county auditor showing the precise amount of "school revenue for tuition" in the county ready for apportionment and distribution;⁴⁵ sees that the interest on the common school fund is apportioned, and that proper warrants are issued in case of "loss of any school fund or revenue" or "a deficit of interest of any school fund";⁴⁶ and inspects the official dockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenue belonging to such funds, and he institutes judicial proceedings when such neglect is found.⁴⁷

The county superintendent will appoint three members of the county library board when such board is established in the county. He appoints two members of any city library board which receives aid from the county.⁴⁸ From 1919 until 1935 he annually awarded two scholarships to Indiana University.⁴⁹

The county superintendent hears and decides appeals from township trustees concerning "the legality of school meetings," the establishment of schools, the location, building, repair, or removal of schoolhouses, the "transfer of persons for school purposes," the transfer of pupils from one school corporation to another, the transportation of such transferred

⁴³ These reports are made annually unless the board of commissioners requires that they be made more often. Acts 1865, 1873, 1883; Burns 28-2412; Baldwin 6498.

⁴⁴ Acts 1865; Burns 28-715; Baldwin 5949.

⁴⁵ Acts 1865, 1873, 1897; Burns 28-1009; Baldwin 6486.

⁴⁶ Acts 1873, 1875; Burns 28-711; Baldwin 5951. Acts 1865; Burns 28-715; Baldwin 5949.

⁴⁷ Acts 1873; Burns 28-712; Baldwin 5950. Moore v. State *ex rel.* Denny, 55 Ind. 360; Nichols v. State *ex rel.* Clark (1879), 65 Ind. 512; Carr v. State *ex rel.* Attorney General (1882), 81 Ind. 342.

The county superintendent cannot enjoin school trustees from unlawfully paying out school funds. McGreggor v. State *ex rel.* Ballard (1903), 31 Ind. App. 483, 68 N. E. 315.

⁴⁸ Acts 1917, 1921, 1927, 1939; Burns, 1939 suppl., 41-510, 41-514; Baldwin, 1939 suppl., 10321, 10325.

⁴⁹ Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 45, sec. 1.

pupils to and from school, the resignation and dismissal of teachers, and other school matters.⁵⁰ He casts the deciding vote in case of a tie vote concerning the management and control of any high school operated jointly by two or more school corporations in the county.⁵¹ In many cases his acts and decisions are reviewable on appeal to the state superintendent of public instruction.⁵²

The county superintendent receives annual statistical reports from township trustees and the school trustees of cities and towns;⁵³ cooperates in the examination of schools by inspectors of the state board of education; makes reports as required by such inspectors;⁵⁴ and makes annual reports to the state superintendent of public instruction concerning the enumeration and average daily attendance of school children, the condition of schools and schoolhouses, the progress of education, and such additional statistics and information as is required by the state superintendent.⁵⁵

REPORTS

279. ANNUAL FINANCIAL AND STATISTICAL REPORT, 1923-. 1 bdl., 2 f. d. Title varies: Trustees Annual and Statistical, 1931-, 1 f. d.

Township trustees' annual financial and statistical reports to county superintendent, showing date of report, names of trustee and city, town or township, number of employees and amount of wages, enrollment of pupils, assessed valuation of school property, mileage and cost of pupils' transportation, itemized statements of assets and liabilities, and net valuation of school property. Arr. chron. by dates of reports. No index. Hdw. Bdl., 12 x 10 x 2; f. d., 18 x 16 x 14. 1 bdl., 1923-28, bsmt. stor. rm.; 2 f. d., 1929-, supt. off.

⁵⁰ Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405; Baldwin 5952. Acts 1901; Burns 28-3705; Baldwin 6286. Acts 1935; Burns, 1939 suppl., 28-3718; Baldwin, 1935 suppl., 6292-2. Acts 1917; Burns 28-3801; Baldwin 6271. State *ex rel.* Stewart v. Miller (1923), 193 Ind. 492, 141 N. E. 60; Brumfield v. State *ex rel.* Wallace (1934), 206 Ind. 647, 190 N. E. 863. *Opinions of the Attorney General of Indiana*, 1938, p. 302.

⁵¹ Acts 1911, 1915; Burns 28-2652; Baldwin 6171.

⁵² Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405, 28-2407; Baldwin 5952, 5953.

⁵³ Acts 1865, 1873, 1883; Burns 28-2414; Baldwin 5974.

⁵⁴ Acts 1921; Burns 28-305; Baldwin 5939.

⁵⁵ Acts 1865, 1873, 1895; Burns 28-713 to 28-715; Baldwin 5947 to 5949. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

280. SUPERINTENDENTS' REPORT TO EMPLOYING OFFICIAL OR BOARD, 1896-1931, 1936-. 1 bdl., 1 f. b. Title varies: Standard Record of Teachers Qualifications, 1896-1931, 1 bdl.

Copies of superintendents' reports to employing officials regarding teachers' qualifications, showing date of report; names of school, taxing unit, and teacher; kind, grade, serial number, and expiration date of license; success grade; experience; training; last school attended; minimum monthly salary of teacher; annual contribution to retirement fund; and membership number. Arr. alph. by names of teachers. No index. Hdw. Bdl., 6 x 4 x 3; f. b., 6 x 4 x 4. Supt. off.

281. TEACHER'S REPORT OF AGGREGATE ATTENDANCE OF PUPILS, 1933-. 42 bdls.

Teachers' reports to county superintendent of aggregate attendance of pupils in grades 1 to 12 showing date of report and period covered, name of township or school corporation, number of days of school operation and pupils enrolled, aggregate attendance, number of legal resident pupils of township or school corporation attending public, private, and parochial schools within and outside of township or corporation and non-legal-resident pupils attending same school within township or corporation, and total number of pupils attending school in each township or school corporation. Arr. chron. by dates of reports. No index. Hdw. 24 x 12 x 1/2. Supt. off.

282. ATTENDANCE RECORD, 1929-. 1 f. b.

Teachers' reports submitted to attendance department, showing date of report; names of teacher, school, and school unit; number of pupils enrolled at beginning of period, entered during period, and withdrawn during period; and total enrollment. Arr. chron. by dates of reports. No index. Hdw. 14 x 16 x 24. Supt. off.

ENUMERATIONS

283. ENUMERATION OF CHILDREN FOR SCHOOL PURPOSES, 1908-24. 17 bdls.

Enumeration lists of children between 6 and 21 years of age, showing date of enumeration; names of enumerator, township trustee, school unit, and parent or guardian; name, address, age, sex, color, date and place of birth, occupation, and physical condition of child; and school district, Congressional Township, and range numbers. Arr. chron. by dates of enumerations. No index. Hdw. 14 x 9 x 3. Bsmt. stor. rm.

TEACHERS

284. SUPERINTENDENTS' VISITING RECORDS, SUCCESS GRADES, 1882-.
40 vols.

Record of county superintendent's official visits to schools, showing date of visit, name of teacher, name or district number of schools visited, school conditions observed, and notes on ability and personality of teacher. Arr. chron. by dates of visits. No index. Hdw. 100 pp. 8 x 4 x ½. Supt. off.

285. SUCCESS GRADES, 1927-37. 2 f. b. Discontinued.

Card record of teachers' success grades assigned annually by county superintendent, showing school year, name and address of teacher, grades taught or position held by teacher, and success grade. Arr. alph. by names of teachers. No index. Hdw. 7 x 6 x 14. Supt. off.

286. LICENSE RECORD, 1921-. 1 f. b.

Card record of licensed teachers in county, showing names and addresses of teacher and training institution; and date, kind, serial number, and duration of license. Arr. alph. by names of teachers. No index. Hdw. 6 x 5 x 18. Supt. off.

287. RECORD OF TEACHERS EXAMINATIONS, 1907-23. 2 vols.
Discontinued.

Record of examinations for county and state teaching licenses, showing dates of examination and license, name and address of applicant, subjects covered by examination, grades made, and kind and duration of license issued. Arr. chron. by dates of examinations. No index. Hdw. 250 pp. 18 x 14 x 3. Supt. off.

PUPILS

288. HIGH SCHOOL AND 8th GRADE GRADUATES, 1888-1909,
1922-. 1 vol., 2 f. d. Title varies: Record of
Graduates, 1888-1909, 1 vol.

Record of graduates from 8th grade and high schools in county, showing date of graduation, name and date and place of birth of graduates, subjects studied, grades attained, scholarship average, and name of school. 1888-1909, arr. chron. by dates of graduations; 1922-, arr. alph. by names of graduates. No index. Hdw. Vol., 150 pp. 14 x 18 x 1; f. d., 14 x 16 x 24. Supt. off.

XXII. COUNTY HEALTH OFFICER

LEGAL STATUS

The office of county health officer exists under the mandatory provisions of an act of 1935 which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners, with the approval of the Indiana State Board of Health. At the time of making an appointment the board of commissioners determines whether he shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer. He must be a regularly licensed physician, suitably trained in sanitary science and hygiene,¹ and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.²

The county health officer receives an annual salary in an amount equal to 3 cents for each county resident, exclusive of the residents of any city having a health officer, provided that his salary must be between \$200 and \$1,800 per year. This rate of compensation applies to part-time officers and full-time officers. A part-time county health officer may also serve as part-time city health officer, but his compensation from the two offices cannot exceed \$1,800 per year.³ With the approval of the board of commissioners and the state board of health he is permitted to receive gifts and other financial assistance from private individuals, private corporations, the state, and the United States.⁴

The health officer may be removed from office by the board of commissioners or the state board of health. Any vacancy in office is filled through appointment by the board of commissioners, with the approval of the state board of health.⁵

Since the early days of the county the board of commissioners has had statutory authority to appoint inspectors of

¹ Acts 1935 (effective January 1, 1938); Burns, 1939 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7. Interview of March 1, 1940 with Dr. Verne K. Harvey, director of the state board of health.

² Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3703; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

³ Acts 1935; Burns, 1939 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7. *Opinions of the Attorney General of Indiana, 1938*, p. 17.

⁴ Acts 1935; Burns, 1939 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

⁵ Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

flour, beef, pork, salt, and hay. Tobacco inspectors could be appointed by the board before 1857 and by the judge of the circuit court since 1857.⁶

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health, and annually appointed a secretary who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to inmates of the county jail and any other medical services required of him by the board of commissioners.⁷ An act of 1891 enlarged the duties of the board.⁸ In 1909 the county board of health was abolished and the office of county health commissioner (appointed for a 4-year term by the board of commissioners) was established. This office continued until January 1, 1938, when the act of 1935 (the present law) became effective.⁹

FUNCTIONS AND RECORDS

The county health officer protects and supervises the general health and sanitation of the county, except in incorporated cities having a full-time or part-time health officer;¹⁰ enforces the health laws of the state and the rules and regulations of the state board of health;¹¹ attends meetings of the state board when requested by that board;¹² oversees inspection of food and drugs; endeavors to promote sanitary conditions for the sale of food;¹³ condemns buildings unfit for human habitation;¹⁴ sends samples of water to the state laboratory for inspection in order to detect pollution;¹⁵ receives reports of diseases; makes inspections of public buildings and institutions; investigates the presence, source,

⁶ Acts 1816-17, ch. 11, sec. 4. Acts 1818-19, ch. 15, sec. 1. Rev. Laws 1824, ch. 109, sec. 4. Rev. Laws 1831, ch. 59, secs. 1-6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27. 1 Rev. Stat. 1852, ch. 55, sec. 1. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468. Acts 1857; Burns 67-308; Baldwin 9461.

⁷ Acts 1881, ch. 19, sec. 8.

⁸ Acts 1891, ch. 15, sec. 8.

⁹ *Ibid.*, secs. 8, 10. Acts 1909, ch. 144, secs. 4, 6. Acts 1935; Burns, 1939 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁰ Acts 1935; Burns, 1939 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

¹¹ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

¹² Acts 1903; Burns 35-406; Baldwin 8535.

¹³ Acts 1909; Burns 35-1002; Baldwin 8512. Acts 1907; Burns 35-1207; Baldwin 8476.

¹⁴ Acts 1917; Burns 35-1801; Baldwin 8563.

¹⁵ Acts 1903; Burns 35-201; Baldwin 8410. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

and cause of disease; causes public service vehicles, public buildings, and dwelling places to be disinfected after certain diseases have occurred there; causes the removal of diseased persons from hotels, rooming houses, apartments, and similar places when necessary to prevent the spread of certain diseases; establishes quarantines; closes schools and churches and forbids public gatherings in order to prevent the spread of epidemics; and protects the public health in all reasonable and necessary ways.¹⁶

From 1911 until 1935 his predecessors in office referred cases of indigent persons bitten by a dog, known or supposed to have hydrophobia, to the state board of health for the Pasteur treatment; ordered hydrophobia-infected animals quarantined or killed; and, in case there was danger of the outbreak or spread of hydrophobia, ordered the muzzling or quarantining of dogs and other animals, with the consent and aid of the sheriff.¹⁷

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the county health officer to the state board of health.¹⁸

The county health officer collects, records, and reports the vital statistics of the county; issues burial permits;¹⁹ and keeps full and permanent records of the public health work and of his reports. He makes monthly reports of his work to the state board of health.²⁰ He prepares and delivers to the clerk of the circuit court, on his request therefor, a list of the names and last known addresses of deceased voters.²¹

¹⁶ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903, 1915; Burns 35-402 to 35-405, 35-407 to 35-410; Baldwin 8532 to 8535, 8537 to 8540. Acts 1917; Burns 35-601 to 35-605; Baldwin 8402, 8552 to 8556. Acts 1935; Burns, 1939 suppl., 35-2207; Baldwin, 1935 suppl., 8431-7.

¹⁷ Acts 1911, ch. 98, secs. 3-5 (repealed by Acts 1935, ch. 271, sec. 1). Acts 1935; Burns, 1939 suppl., 35-711; Baldwin, 1935 suppl., 3863-1.

¹⁸ Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Rule 6 of state board of health.

¹⁹ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1939; Burns, 1939 suppl., 63-722; Baldwin, 1939 suppl., 7458-6.

Public or private funeral determined. Acts 1903, 1915; Burns 35-409; Baldwin 8539.

²⁰ Acts 1891, 1909; Burns 35-111; Baldwin 8405.

²¹ Acts 1933; Burns 29-321; Baldwin 7319.

VITAL STATISTICS

289. BIRTH RECORDS, 1882-. 25 vols.

Record of births reported to county health officer, showing date and place of birth; name, sex, color, and race of child; names, occupations, and addresses of parents; and name of attending physician. Arr. chron. by dates of births. Indexed alph. by names of children. Hdw. 200 pp. 18 x 14 x 2. 24 vols., 1882-Nov. 7, 1934, C. C., hlth. offr. off.; 1 vol., Nov. 8, 1934-, hlth. offr. off., 105½ W. Main St., Portland.

290. DANGEROUS DISEASES, 1893-. 6 vols.

Record of contagious and infectious diseases reported to county health officer, showing dates of report and quarantine, name and address of patient, nature and duration of disease, and name of person reporting. Arr. chron. by dates of reports. Indexed alph. by names of patients. Hdw. 200 pp. 16 x 14 x 2. 5 vols., 1893-Dec. 15, 1922, C. C., hlth. offr. off.; 1 vol., Dec. 16, 1922-, hlth. offr. off., 105½ W. Main St., Portland.

291. MARRIAGE RECORD, 1882-. 13 vols., 1. f. d.

Record of marriage returns reported to county health officer, showing dates of marriage and return; names, addresses, dates and places of birth, occupations, and previous marital status of bride and groom; names of parents; and name and title of person officiating. 1882-July 5, 1934, arr. chron. by dates of returns; July 6, 1934-, arr. alph. by names of grooms. 1882-July 5, 1934, indexed alph. by names of grooms; July 6, 1934-, no index. Hdw. Vols., 200 pp. 18 x 14 x 2; f. d., 10 x 12 x 24. C. C., hlth. offr. off.

For other marriage records, see entries 37-41.

292. RECORD OF DEATHS, 1882-. 11 vols.

Record of deaths reported to county health officer, showing dates of death and filing; name, address, and age of deceased; names of parents and attending physicians; duration of illness; and cause of death. Arr. chron. by dates of filing. Indexed alph. by names of decedents. Hdw. 150 pp. 18 x 14 x 2. 10 vols., 1882-1921, C. C., hlth. offr. off.; 1 vol., 1922-, hlth. offr. off., 105½ W. Main St., Portland.

XXIII. PUBLIC HEALTH NURSE

LEGAL STATUS

Under the permissive provisions of an act of 1935, Jay

County has a full-time public health nurse who is appointed for an indefinite term by the board of commissioners (subject to the approval of the Indiana State Board of Health). She may be removed from office at any time by the board of commissioners without charges being made against her.¹ The nurse must be "legally qualified"; must have been suitably trained in sanitary science;² must have knowledge of mental hygiene and nutrition;³ must be of vigorous health; must demonstrate that she has high ideals, that she acts in accordance with ethical standards, and that she can be depended on to exercise good judgment; must be industrious and efficient; and must have "ability to get on well with other people."⁴ Her compensation is fixed by the board of commissioners and included in an appropriation by the county council. There are no statutory limitations on the amount of her compensation.⁵

FUNCTIONS AND RECORDS

The public health nurse devotes her entire time to the duties of her office in protecting and supervising the general health and sanitation in Jay County; performs such duties as are prescribed by regulations of the state board of health;⁶ helps to secure early medical diagnosis and treatment for sick, diseased, and ailing persons; renders or arranges for necessary nursing care; teaches through demonstration the care to be given by relatives and attendants of sick, diseased, and crippled persons and invalids, and supervises such care; assists families and individuals to plan and carry out medical, sanitary, and social procedures for the prevention of disease and the promotion of health; helps to secure adjustment of social conditions which affect health; influences the community to develop public health facilities through participating in appropriate channels of community education for the promotion of a sound and adequate community health program; shares in community action leading to betterment of

¹ Acts 1935; Burns, 1939 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. Letter of March 6, 1940 from James P. Wason, Deputy Attorney General of Indiana, to Dr. Christopher B. Coleman, Director of the Indiana Historical Bureau, concerning the term of office and removal of public health nurses.

² Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

³ Interview of May 17, 1940 with Dr. Verne K. Harvey, director of state board of health.

⁴ Regulation adopted by state board of public health on February 17, 1940.

⁵ Acts 1935; Burns, 1939 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

⁶ *Ibid.*

health conditions; participates in programs for the prevention of physical and mental handicaps of children; and assists in the education of handicapped children. Her duties extend to the following specific subjects: Maternity, infant and preschool health, school health, adult health, communicable diseases in general, tuberculosis, syphilis, gonorrhea, noncommunicable diseases in general, orthopedic service, vital statistics, sanitation, nutrition, and mental hygiene.⁷

Concerning maternity, the nurse assists in securing medical and dental examination and supervision early in pregnancy and throughout the antepartum period; assists in planning and preparing for confinement and in securing a postpartum medical examination; gives assistance at home confinements and care to the mother and baby during the postpartum period; helps the family to carry out specific medical advice as to maternal hygiene and infant care; and participates in promoting adequate resources for maternity care through utilizing appropriate channels of community education.⁸

Concerning infant and preschool health, the nurse assists in securing complete birth registration; assists in securing medical supervision, dental examination, and correction of defects for every child; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation, and the value of immunization; and assists the family to carry out general and specific medical instruction concerning hygiene and the daily regime of the child, including instruction of parents in the desirability of early establishment of sound health habits.⁹

Concerning school health, the nurse participates in formulating and developing a health education program based on the needs of the pupils; assists physicians and dentists in the examination of pupils and the interpretation of findings to teachers, parents, and children; teaches the value of adequate health supervision and facilities for medical and nursing care, and assists in securing corrections of defects; inspects pupils; instructs teachers, parents, and pupils to observe and recognize deviations from normal health; assists in the control of communicable diseases through teaching the recognition of early symptoms, the importance of isolation,

⁷ Interview of May 17, 1940 with Dr. Verne K. Harvey, director of the state board of health.

⁸ *Ibid.*

⁹ *Ibid.*

and the value of immunization; promotes the maintenance of a healthful school environment—physical, emotional, and social; arranges for the care of emergency and minor injuries and illnesses in accordance with standing medical orders; develops relationships to coordinate school nursing activities with all other health forces of school, home, and community and to promote community health resources; participates in curriculum making; and instructs classes in the principles of healthful living and care of the sick.¹⁰

Concerning adult health, the nurse encourages periodic health examinations; teaches the fundamentals of personal hygiene in order to assist in the prevention and retardation of those diseases specific to adult life; and assists in securing early diagnosis and treatment of those diseases.¹¹

Concerning communicable diseases in general, the nurse promotes the complete reporting of reportable diseases; teaches the need of medical care; assists the family to carry out isolation and general and specific medical instructions; interprets health department procedure to individuals and groups; assists in making epidemiological investigations; instructs parents, teachers, and other individuals and groups to recognize early symptoms, to isolate suspicious cases, to carry out proper precautions, to prevent the spread of disease, and to appreciate the importance of adequate convalescent care; and helps under medical direction to secure specific immunization.¹²

Concerning tuberculosis, the nurse assists in finding cases, making contacts, and obtaining reports of all cases; assists in making epidemiological investigations; helps to arrange for sanatorium and postsanatorium care and rehabilitation of the patient when indicated; teaches the patient and family the importance of personal hygiene and the precautions to be taken to prevent the spread of the disease; helps the patient and his family to maintain a mental and social adjustment toward a long-term communicable disease; helps to educate the public concerning the unmet needs of the community for the prevention, control, and care of tuberculosis; and assists in integrating services of clinics, sanatoriums, private physicians, health department, and other related health and social agencies.¹³

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

Concerning syphilis and gonorrhea, the nurse assists in finding cases and making contacts; assists in making epidemiological investigations; promotes the reporting of cases; promotes continued treatment through assisting the patient to follow prescribed routines; teaches the patient and family the importance of personal hygiene and the precautions to be taken to prevent the spread of these diseases; and teaches scientific facts to individuals and groups to help eliminate the stigma inflicted by modern society upon the victims of these diseases.¹⁴

Concerning noncommunicable diseases, the nurse assists in securing special care for patients having special types of disability, such as orthopedic and cardiac conditions, arthritis, diabetes, and cancer; observes and assists in adjustment of health situations in the homes of patients; teaches general hygiene and the prevention of disease; and puts the family in touch with community resources.¹⁵

Concerning orthopedic service, the nurse assists in finding orthopedic cases; observes and helps others to recognize environmental conditions or habits which might produce postural or other orthopedic defects, and helps to eliminate such conditions or habits; observes and helps to eliminate conditions for bed patients which might cause contractures, foot drop, or spinal curvature; observes and teaches others to recognize signs of orthopedic defects; gives or obtains skilled physiotherapy treatment under medical direction to prevent deformities and to secure maximum return of power to muscles and joints; and teaches the patient and his family the importance of self-reliance on the part of the crippled person, promoted by encouraging independence in daily routines and interest in useful occupations.¹⁶

Concerning vital statistics, the nurse teaches, as a part of the antepartum care, the value of birth registration and the importance of accurate statements on the birth certificate; makes sure that all births are registered before closing maternity cases; reports to the county health officer all births and stillbirths known to the nurse; and assists in morbidity and mortality studies which are useful in determining needs and formulating programs.¹⁷

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

Concerning sanitation, the nurse ascertains the source of water supply and the means of excreta disposal in the homes visited by her, and notifies the county health officer when these do not appear to be safe; teaches the importance of correcting unsatisfactory conditions, and the methods of immediate protection pending their correction; observes the ventilation and screening in the homes visited; teaches the importance of screens; inquires concerning the source of the milk supply; and teaches standards and the importance of sanitary methods of milk production and handling.¹⁸

Concerning nutrition and mental hygiene, the nurse uses the resources of the community which contribute to good nutrition; observes signs of poor nutrition and their contributing conditions; instructs families concerning the relationship of nutrition to health and normal growth and development; assists families to adapt nutrition information to their own economic and social situations; keeps in mind the variations in human behavior and their significance; uses the mental health resources of the community; and tries to make more productive all contacts with families and individuals.¹⁹

In accordance with the regulations of the state board of health, the public health nurse makes reports to the county health officer, the state board of health, physicians, and co-operating agencies, and keeps records of her work. Special care must be taken to make these reports and records as accurate as possible.²⁰

293. [COUNTY NURSE'S REPORT], 1937-. 1 vol.

County nurse's reports on health conditions in county, showing date of report; name of nurse; number of cases of diphtheria, tuberculosis, maternity, postpartum, morbidity, and crippled children; number of home visits, office visits, visits to Irene Byron sanatorium, and visits to private physicians; number of cases admitted and dismissed; and summary of all activities. Arr. chron. by dates of reports. No index. Typed. 50 pp. 12 x 10 x 1/2. Hlth. nurse's off.

294. [QUARTERLY REPORTS], 1937-. 1 bdl.

Copies of quarterly reports of communicable diseases, showing date of report, name of nurse, nature of disease, number of visits, consultations with physicians, and number of admissions to hospitals. Arr. chron. by dates of reports. No index. Hdw. 4 x 8 x 10. Hlth. nurse's off.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ *Ibid.*

XXIV. COUNTY DEPARTMENT OF PUBLIC WELFARE

LEGAL STATUS

The county department of public welfare exists under the mandatory provisions of an act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.¹ The department is a legal entity and its official name is "The County Department of Public Welfare of Jay County." It may sue and be sued in that name.²

Before the present system of welfare was organized, the county administered aid to the poor and needy through discretionary powers granted to the county. County asylums were established at an early date to care for those who were without homes and means to care for themselves.³ An act of 1857 authorized the board of commissioners to give aid to needy blind and infirm poor.⁴ In 1901 the board of children's guardians was established in the county to provide adequate care and supervision of neglected and dependent children.⁵ The board of county charities and corrections (organized in 1899) inspected and advised changes in the county institutions.⁶ A system of old-age pensions was provided for by an act of 1933.⁷ These previous methods of welfare assistance were merged into the present welfare law.⁸

Since the early days of the county, township poor relief has been administered by township overseers of the poor (now the township trustees), from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.⁹

¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

² Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122(a); Baldwin, 1937 suppl., 14078-23.

³ Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. Rev. Stat. 1843, ch. 19, sec. 34.
1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1901; Burns 52-104; Baldwin 13361.

⁴ Acts 1857; Burns 26-1202; Baldwin 5295.

⁵ Acts 1901, 1923, 1927; Burns 22-2801, 22-2802; Baldwin 5684, 5685.

⁶ Acts 1899; Burns 22-2901 to 22-2903; Baldwin 4116 to 4118.

⁷ Acts 1933, ch. 36, secs. 1-27 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

⁹ Acts 1816-17, ch. 26, sec. 1. Acts 1817-18 (general), ch. 14, secs. 1-24. Rev. Laws 1824, ch. 15, sec. 7; ch. 72, secs. 1-25. Rev. Laws 1831, ch. 69, secs. 1-27. Rev. Stat. 1838, ch. 20, sec. 20. Rev. Stat. 1843, ch. 5, sec. 69. 1 Rev. Stat. 1852, ch. 81, secs. 1-38. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1939 suppl., 52-145 to 52-162a; Baldwin, 1935 suppl., 13320-2 to 13359-12.

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for 2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the state and federal constitutions and faithfully discharge the duties of his office.¹⁰

The judge of the circuit court may, at any time, after due notice in writing, remove any member of the county board of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.¹¹

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call. Three members of the board constitute a quorum for transacting business.¹²

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and state conventions of county board members.¹³

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties

¹⁰ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹² *Ibid.*

¹³ *Ibid.*

of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the state department of public welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.¹⁴

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the state department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the state department may order the county board to remove him from office. Vacancies in the office of county director are filled in the manner in which original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the state department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the state department may appoint a successor to serve at the pleasure of the state department.¹⁵

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare, within the salary ranges established by the state department. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.¹⁶

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the state department of public welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.¹⁷

FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the state department of public welfare, the county department is charged by statute with the administration of assistance to dependent children in their own homes, old-age assistance,

¹⁴ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

¹⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

¹⁶ *Ibid.* Interview of August 14, 1939 with Thurman A. Gottschalk, administrator of the state department of public welfare.

¹⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

the care and treatment of dependent, neglected, and handicapped children and children in danger of becoming delinquent, and services and assistance to the blind and to persons otherwise handicapped. The state and county department also administer provisions and benefits of the federal "Social Security Act" of August 14, 1935. The county director performs the duties prescribed by law for the probation officer of the circuit court (concerning any welfare matters before the court), when so directed by the circuit court; but he cannot hold the office of probation officer. The county department must report to the state department "at such times and in such manner as the state department may, from time to time, direct." Necessary quarters for the county department must be provided by the board of commissioners.¹⁸

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,¹⁹ to which are added such repayments as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.²⁰ Old-age assistance certificates, filed with the recorder, establish liens against estates of recipients to insure reimbursement.²¹ From state funds the county receives, as partial reimbursements, 60 percent of the amount paid by the county for assistance to aged persons and dependent children plus 50 percent of the amount paid by the county for personal services in the administration of the Welfare Act. A part of other funds received by the state from the federal government for welfare purposes is distributed to the counties as additional reimbursement for assistance given to aged persons and dependent children. These reimbursements are paid into the county welfare fund.²² All claims for administrative expenses are subject to allowance by the board of commissioners. Claims for assistance are determined by the department and

¹⁸ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-14, 14078-21. *Opinions of the Attorney General of Indiana, 1936*, p. 155.

¹⁹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

²⁰ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

²¹ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

²² Acts 1936 (Spec. Sess.), 1937; Burns, 1939 suppl., 52-1124a, 52-1219, 52-1249, 52-1254; Baldwin, 1937 suppl., 14078-24a, 14078-50, 14078-80, 14078-85. "Annual Report of the Department of Public Welfare, 1938-1939," *Year Book of the State of Indiana for the Year 1939* p. 928.

approved by the director, and need not be allowed by the board of commissioners.²³ The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.²⁴

The auditor keeps the records relating to the county welfare fund and its financial transactions.²⁵ The county department keeps such records and accounts as are required by the state department of public welfare.²⁶ All records are confidential, except the following: (a) Applications for assistance, (b) awards, and (c) modification and revocation of awards.²⁷

PROCEEDINGS

295. MINUTE BOOK, 1936-. 1 vol.

Record of meetings of county board of public welfare, showing date, time, and place of meeting; names of members present; nature of business discussed; and action taken. Arr. chron. by dates of meetings. No index. Typed. 300 pp. 18 x 12 x 2. Pub. welf. off.

296. RECOMMENDATIONS OF COUNTY DIRECTOR, 1936-. 1 vol.

Record of recommendations of county director and actions of county board of public welfare as to awards, rejections, modifications, and revocations of assistance to the aged, the blind, and to dependent children, showing dates of recommendation and action, name of applicant or recipient, application and recommendation numbers, date of notice, and certificate number. Arr. num. by recommendation nos. No index. Typed. 500 pp. 12 x 18 x 3. Pub. welf. off.

OLD-AGE ASSISTANCE

(See also entries 86, 314-318)

297. MASTER INDEX, 1936-. 1 vol.

Card index to Aged, Active, entry 298; Aged, Inactive, entry 299; Register of Applications, Aged, entry 300; Record of Assistance Given Aged Persons, Active, entry 301; Register of Assistance Given Aged Persons, Inactive, entry 302;

²³ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²⁴ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

²⁶ Acts 1936 (Spec. Sess.), Burns, 1939 suppl., 52-1260, 52-1402; Baldwin, 1937 suppl., 14078-91, 14078-114.

²⁷ Acts 1936 (Spec. Sess.); Burns, 1939 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

Dependent Children Cases, entry 304; Register of Applications, Dependent Children, entry 305; Register of Foster Home Applications, entry 306; Register of Dependent Children in Foster Care or Under Supervision, entry 307; Register of Applications for Services of Crippled Children, entry 308; Record of Assistance given Dependent Children, Active, entry 309; Record of Assistance Given Dependent Children, Inactive entry 310; Individual Record, Assistance to Destitute Children, entry 311; Blind Cases, entry 312; Register of Applications, Blind, entry 313, showing name and address of applicant or recipient, application number, and dates of award, rejection or withdrawal. Arr. alph. by names of applicants or recipients. Typed. 4 x 16 x 24. Pub. welf. off.

298. AGED, ACTIVE, 1936-. 4 f. d.

Original documents of active old-age assistance cases, including applications, statements of relatives, face sheets, recommendations, certificates of awards, visitors' reports, employment records, statement of ownership of property, and assignments of life insurance and other property, showing date and nature of document; application number; name, age, address, and family history of recipient; and amount of assistance granted. Arr. alph. by names of recipients. For index, see entry 297. Hdw. and typed. 14 x 16 x 20. Pub. welf. off.

299. AGED, INACTIVE, 1936-. 2 f. d.

Original documents of inactive old-age assistance cases, showing same information as in entry 298. Arr. alph. by names of recipients. For index, see entry 297. Hdw. and typed. 14 x 16 x 20. Pub. welf. off.

300. REGISTER OF APPLICATIONS, AGED, 1936-. 1 vol.

Register of applications for old-age assistance, showing date and number of application; name, age, and sex of applicant, name of investigator assigned; date of board action; and decision of board. Arr. num. by application nos. For index, see entry 297. Typed. 200 pp. 12 x 18 x 1. Pub. welf. off.

301. RECORD OF ASSISTANCE GIVEN AGED PERSONS, ACTIVE, 1936-. 1 vol.

Record of active cases of old-age assistance, showing application number; name and address of recipient, amounts paid under 1933 and 1936 acts; amounts paid in county of former residence; assignments of life insurance and other assets; and dates, numbers, and amounts of warrants. Arr. num. by application nos. For index, see entry 297. Typed. 900 pp. 10 x 18 x 4. Pub. welf. off.

302. REGISTER OF ASSISTANCE GIVEN AGED PERSONS, INACTIVE, 1936-. 1 vol.

Record of inactive cases of old-age assistance, showing application number; name and address of recipient; amount of monthly award; date, number, and amount of warrant; total amount of assistance paid; date and number of withdrawal certificate; and reason for withdrawal. Arr. num. by application nos. For index, see entry 297. Typed. 600 pp. 10 x 18 x 4. Pub. welf. off.

303. REGISTER OF RECIPIENTS ASSISTANCE WITHDRAWN, 1936-. 1 vol.

Record of deceased recipients, showing date of withdrawal, name of recipient, application number, date of death, estate number, and dates of claim and report to state department. Arr. chron. by dates of withdrawals. No index. Typed. 50 pp. 10 x 12 x 1. Pub. welf. off.

DEPENDENT CHILDREN ASSISTANCE

304. DEPENDENT CHILDREN CASES, 1936-. 1 f. d.

Original documents of active and inactive cases of assistance for aid to dependent children, including applications, visitors' reports, recommendations, and certificates of award, rejections, and withdrawals, showing date and nature of document; application number; name, address, age, sex, color, and family history of child; name of parent, guardian, or person in loco parentis; and amount of award. Arr. num. by application nos. For index, see entry 297. Hdw. and typed. 14 x 16 x 20. Pub. welf. off.

305. REGISTER OF APPLICATIONS, DEPENDENT CHILDREN, 1936-. 1 vol.

Register of applications for aid to dependent children, showing date and number of application, names of parent or guardian and child, number of children, name of investigator assigned, and date of award or rejection. Arr. num. by application nos. For index, see entry 297. Typed. 50 pp. 12 x 18 x 1. Pub. welf. off.

306. REGISTER OF FOSTER HOME APPLICATIONS, 1937-. 1 vol.

Register of applications to care for dependent children in foster homes, showing date and number of application, name and address of applicant, kind of home offered, number of children applied for, name of investigator assigned, and date of approval or rejection. Arr. num. by application nos. For index, see entry 297. Typed. 50 pp. 8 x 12 x 1. Pub. welf. off.

307. REGISTER OF DEPENDENT CHILDREN IN FOSTER CARE OR UNDER SUPERVISION, 1936-. 1 vol.

Register of dependent children placed in private homes and institutions, showing date of complaint, names of complainant and child, name of investigator assigned, name and address of home owner or institution, and date of placement or rejection. Arr. chron. by dates of complaints. For index, see entry 297. Typed. 50 pp. 8 x 12 x 1. Pub. welf. off.

308. REGISTER OF APPLICATIONS FOR SERVICES OF CRIPPLED CHILDREN, 1937-. 1 vol.

Register of applications for aid to crippled children, showing date and number of application, name of child, date of physician's examination, status of case, name of investigator assigned, and date of approval or rejection. Arr. num. by application nos. For index, see entry 297. Typed. 25 pp. 8 x 12 x 1. Pub. welf. off.

309. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN, ACTIVE, 1937-. 1 vol.

Record of active cases of assistance to dependent children, showing application number; name and address of parent or guardian; names and birth dates of children; certificate number; amount of monthly award; and date, number, and amount of warrant. Arr. num. by application nos. For index, see entry 297. Typed. 150 pp. 12 x 18 x 1. Pub. welf. off.

310. RECORD OF ASSISTANCE GIVEN DEPENDENT CHILDREN, INACTIVE, 1937-. 1 vol.

Record of inactive cases of assistance to dependent children, showing application number, names of parent or guardian and child, amount of monthly award, total amount of assistance paid, date and number of withdrawal certificate, and reason for withdrawal. Arr. num. by application nos. For index, see entry 297. Typed. 150 pp. 12 x 18 x 1. Pub. welf. off.

311. INDIVIDUAL RECORD, ASSISTANCE TO DESTITUTE CHILDREN, 1936-. 1 vol.

Record of expenditures for care of destitute children, showing case number, name of court of adjudication, name of child, names and addresses of parents and institution or person having custody, date of placement, and itemized account of expenditures. Arr. num. by case nos. For index, see entry 297. Typed. 100 pp. 8 x 12 x 1. Pub. welf. off.

BLIND ASSISTANCE

312. BLIND CASES, 1936-. 1 f. d.

Original documents of active and inactive cases of assistance

to blind, including applications, request for eye treatment, notice to report to physician, physician's report on eye examination, and statistical reports, showing date and number of application; name, age, and financial status of applicant; and nature of treatment. Arr. num. by application nos. For index, see entry 297. Hdw. and typed. 14 x 16 x 20. Pub. welf. off.

313. REGISTER OF APPLICATIONS, BLIND, 1936-. 1 vol.

Register of applications for aid to blind showing date and number of application, names of applicant and investigator assigned, recommendation of county director, and date of award or rejection. Arr. num. by application nos. For index, see entry 297. Typed. 50 pp. 8 x 12 x 1. Pub. welf. off.

FINANCIAL RECORDS

314. CERTIFICATION OF COUNTY CLAIM REGISTER, 1936-. 1 vol.

Copies of county director's and auditor's certifications to state department of public welfare of the monthly report of claims paid, showing date of certification, and amounts of claims payable and warrants issued. Arr. chron. by dates of certifications. No index. Typed. 200 pp. 12 x 9 x 1. Pub. welf. off.

315. ASSIGNMENT REGISTER, 1936-. 1 vol.

Record of assignments of assets by recipients of old-age assistance, showing date of assignment, name of recipient, application number, and description of assets assigned. Arr. chron. by dates of assignments. No index. Hdw. 25 pp. 12 x 18 x 1. Pub. welf. off.

316. ESTATE CLAIM REGISTER, 1936-. 1 vol.

Record of claims filed against estates of recipients, showing date of claim, application number, name of recipient, amount of claim, and date of settlement. Arr. chron. by dates of claims. No index. Hdw. 25 pp. 12 x 18 x 1. Pub. welf. off.

317. RECEIPT BOOK, 1936-. 1 vol.

Copies of receipts issued for repayment of public assistance, showing date, number, and amount of receipt; name of payer; and application number. Arr. chron. by dates of receipts. No index. Hdw. 200 pp. 24 x 8 x 1. Pub. welf. off.

318. REGISTER OF CLAIMS FILED AND WARRANTS ISSUED, 1936-. 1 vol.

Record of appropriations and disbursements of welfare funds, showing date, number, nature, and amount of claim; name of claimant; account number; and date, number, and amount of warrant. Arr. num. by claim nos. No index. Typed. 300 pp. 12 x 16 x 2. Pub. welf. off.

319. CLAIMS FOR PERSONAL SERVICES, 1937-. 1 vol.

Register of claims for personal services, showing date, number, and amount of claim; name of employee; classification of service; appropriation number; and date, number, and amount of warrant. Arr. chron. by dates of claims. No index. Typed. 50 pp. 12 x 24 x 1. Pub. welf. off.

320. REPORTS OF ALLOWANCE AND DISBURSEMENTS, 1936-. 1 vol.

Copies of monthly reports to state department of public welfare of disbursements of welfare funds, showing date of report, amount of disbursements for current month, subtotals for month and for year to date, and account numbers. Arr. chron. by dates of reports. No index. Typed. 50 pp. 12 x 18 x 1. Pub. welf. off.

XXV. SURVEYOR

LEGAL STATUS

The office of surveyor was created by an act of 1833, was reestablished by acts of 1838 and of 1843 and the Constitution of 1851, and has existed in Jay County since 1836. The surveyor is elected by the voters of the county for a 2-year term, without restriction on reelection.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ He must post bond in

¹ Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See footnotes 16 and 17 herein.

² Const. 1851, art. 15, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Pursel v. State *ex rel.* Roney (1887), 111 Ind. 519, 12 N. E. 1003; Boyles v. State *ex rel.* Riggs (1887), 112 Ind. 147, 13 N. E. 415.

⁴ Const. 1851, art. 6, sec. 4.

The surveyor is not required to be a registered professional engineer or land surveyor. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

⁵ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws 1831, ch. 102, sec. 1. State *ex rel.* Bateman v. Hart (1914), 181 Ind. 592, 105 N. E. 149. *Opinions of the Attorney General of Indiana, 1934*, p. 500; 1935, p. 103.

an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁶ The surveyor must take an oath that he will support the state and federal constitutions and will faithfully discharge the duties of his office.⁷

The surveyor receives a regular salary of \$1,000 per year.⁸ The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer."⁹ When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage.¹⁰ He is not entitled to retain, as compensation for himself, any fees collected by him.¹¹

For sufficient legal grounds the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor, and he holds office for the unexpired term and until his successor is elected and qualified.¹⁴

⁶ Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws 1831, ch. 102, sec. 1. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

⁷ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 30, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁸ Acts 1933; Burns 49-1004; Baldwin 7534.

He receives no additional compensation for doing engineering work for the county highway supervisor. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

⁹ Acts 1933; Burns 49-1010; Baldwin 7540.

¹⁰ Acts 1933; Burns 27-103; Baldwin 5739.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-824; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *State ex rel. Culbert v. Link-hauer* (1895), 142 Ind. 94, 41 N. E. 325. Interview of August 29, 1939 with Omer Stokes Jackson, Attorney General of Indiana.

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary, determine whether they be full-time or part-time employees, and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. The deputies must take an oath of office, may perform all the surveyor's official duties, are subject to the same regulations and penalties, and may be removed from office by the board of commissioners. The township trustees are ex officio deputy surveyors (without additional compensation) in their respective townships.¹⁵

From the organization of Jay County in 1836¹⁶ until 1843 a county surveyor was appointed for a 3-year term by the circuit court. From 1843 until 1851 the board of commissioners made these appointments.¹⁷

FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county. He has charge of the preparation of plans and specifications for the construction of all roads, bridges, ditches, drains, and levees; and he supervises such construction. He also has charge of the maintenance of all ditches and drains.¹⁸ If he is not a licensed engineer or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in

¹⁵ Acts 1817-18 (general), ch. 30, sec. 3. Rev. Laws 1824, ch. 104, sec. 2. Rev. Laws 1831, ch. 102, sec. 2. Acts 1933; Burns 27-102, 36-1103; Baldwin 5738, 8701. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-3307; Baldwin 13109, 5513. Acts 1933, 1935, 1337; Burns, 1939 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

¹⁶ Acts 1834-35 (general), ch. 25, sec. 3. Acts 1835-36 (general), ch. 15.

¹⁷ Acts 1817-18 (general), ch. 20, sec. 1. Rev. Laws 1824, ch. 104, sec. 1. Rev. Laws 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (1), sec. 1; ch. 103 (2), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

¹⁸ Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

Work done by employees of Civilian Conservation Corps or Works Projects Administration under supervision of the county Surveyor. Acts 1939; Burns, 1939 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

the matter.¹⁹ From 1885 until 1933 the surveyor served ex officio as a drainage commissioner with a drainage commissioner appointed by the board of commissioners.²⁰

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.²¹ Jay County has a county highway supervisor other than the surveyor.²² The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.²³

On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.²⁴

The surveyor administers certain oaths,²⁵ takes acknowledgments of mortgages and deeds for the conveyance of real estate,²⁶ and makes surveys to establish lines and corners of any lands in the county when requested to do so.²⁷ Surveys made by the surveyor are prima facie evidence in favor of the corners established and the lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.²⁸ For his services other than for the county he charges the fees provided by statutory schedule and pays the same over to the county treasurer.²⁹

¹⁹ Acts 1819-20, ch. 24. Rev. Laws 1824, ch. 104, sec. 3. Acts 1933; Burns 27-102; Baldwin 5738.

²⁰ Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

²¹ Acts 1933; Burns 35-1101, 36-1102, 36-1110; Baldwin 8699, 8700, 8708.

²² See the essay entitled "County Highway Supervisor."

²³ Acts 1925; Burns 49-3323; Baldwin 5520.

²⁴ Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

²⁵ 1 Rev. Stat. 1852; Burns 49-3316; Baldwin 5518.

²⁶ 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

²⁷ Rev. Laws 1831, ch. 102, sec. 6. Acts 1832-33, ch. 74, sec. 3. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510.

²⁸ 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

²⁹ Rev. Laws 1824, ch. 41, secs. 7, 9. Rev. Laws 1831, ch. 102, sec. 6. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521.

The deputies return to the surveyor all field notes taken by them.³⁰ The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,³¹ and keep a record of all surveys made by him.³²

SURVEYS

321. SURVEYOR'S RECORD, 1837-. 3 vols.

Record of field notes made from original United States and subsequent surveys, including a plat of each section, showing dates of survey and recording, names of townships, section and range lines and numbers, corners, acres, and drainage. Arr. chron. by dates of surveys. No index. Hdw. 600 pp. 18 x 12 x 3. Surv. off.

322. FIELD BOOKS, 1837-. 96 vols.

Handbooks used by surveyors for recording notes on surveys, showing date and nature of survey, description of land, location of cornerstones and markings, and measurements of areas in chains and links or feet and inches. Arr. chron. by dates of surveys. No index. Hdw. 100 pp. 7 x 5 x ½. Surv. off.

PUBLIC IMPROVEMENTS

(See also entries 22-27, 192-195, 243-246)

323. DITCH SPECIFICATIONS, 1861-. 5 f. d.

Copies of assessments for construction and repair of ditches, showing name and location of ditch, cause number, amount of assessment, and name of property owner benefited. Arr. alph. by names of ditches. No index. Typed. 6 x 12 x 21. Surv. off.

324. DITCH RECORD, 1861-. 1 f. b.

Card record of assessments for construction and maintenance of ditches and drains, showing date and amount of assessment, names of property owner and ditch, location and description of ditch or drain, and number of feet for which assessment is made. Arr. alph. by names of property owners. No index. Typed. 5 x 9 x 14. Surv. off.

325. DRAINAGE RECORD, 1886-. 6 vols. (1, one vol. not labeled, 1-4). Title varies: Surveyors Ditch Record, 1886-Nov. 1, 1889, 1 vol.

Record of notes made on surveys of ditches, showing names of

³⁰ 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

³¹ 1 Rev. Laws 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

³² 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

ditch and property owners benefited, date of survey, share number, specifications, location and description of lands, and amounts of benefits. Arr. chron. by dates of surveys. Indexed alph. by names of ditches. Hdw. 300 pp. 18 x 14 x 3. Surv. off.

326. DITCH RECORD, 1890-95. 1 vol.

Transcripts of contracts for excavating and cleaning ditches, showing names of contractor and ditch, date and amount of contract, and dates of completion and acceptance. Arr. chron. by dates of contracts. Indexed alph. by names of ditches. Hdw. 600 pp. 18 x 12 x 3. Surv. off.

327. [DITCH AND ROAD PROFILES], not dated. 360 blueprints in 6 f. d.

Blueprints of roads and ditches, showing specifications, and names of roads and ditches. No obvious arr. No index. 7 x 36 x 24. Surv. off.

328. OFFICIAL BOND RECORD [ENGINEERS REPORTS], 1909-12. 1 vol. (2).

Transcripts of reports on proposed roads, ditches, bridges, and culverts, showing date of report; names of project and viewers; amounts of benefits, bids, contracts, bonds, and viewers fees; and action taken. Arr. chron. by dates of reports. Indexed alph. by names of projects. Hdw. 600 pp. 18 x 12 x 3. Surv. off.

XXVI. COUNTY HIGHWAY SUPERVISOR

LEGAL STATUS

The office of county highway supervisor exists under the provisions of an act of 1933. The board of commissioners may appoint the county surveyor or some other person to serve as highway supervisor, subject to removal at any time by the board. If no such appointment is made, the surveyor must perform the duties of this office. A person other than the surveyor now holds this office in Jay County. The law provides that he shall receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year).¹ The highway supervisor must be an elector of

¹ Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8699, 8708, 7540. *Opinions of the Attorney General of Indiana, 1935*, p. 205.

the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year,² must reside within the county after his appointment, and must not hold any other lucrative office.³ He must take an oath that he will support the state and federal constitutions and will faithfully perform the duties of his office.⁴

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determine the rate of wages and hire therefor.⁵

Before 1879 the board doing county business had general supervision of the construction and repair of county roads, with the aid of district road supervisors (appointed by the board), the township trustees, and township supervisors of roads.⁶ From 1879 to 1913 the board of commissioners was an ex officio board of turnpike directors for that purpose. The board divided the county into three districts, and each director had personal supervision of one of such districts.⁷ In 1913 this board was abolished and the office of county highway superintendent was created. The superintendent was appointed biennially by the board of commissioners and placed in charge of the maintenance of all roads, bridges, and culverts in the county.⁸ In 1933 this office was abolished⁹ and the office of county highway supervisor was created.¹⁰

² Const. 1851, art. 6, sec. 4.

A county highway supervisor other than the surveyor is not required to be a qualified registered professional engineer. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

³ Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

Serving as surveyor and also as highway supervisor is not prohibited by the constitution. *State ex rel. Bateman v. Hart* (1914), 181 Ind. 592, 105 N. E. 149.

⁴ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁵ Acts 1933; Burns 36-1107; Baldwin 8705.

⁶ Acts 1816 (general), ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. Laws 1824, ch. 87. Rev. Laws 1831, ch. 20, sec. 22; ch. 82. Rev. Stat. 1838, ch. 91. Rev. Stat. 1843, ch. 4, secs. 26, 160; ch. 16. 1 Rev. Stat. 1852, ch. 48.

⁷ Acts 1879 (Spec. Sess.), ch. 115, sec. 1.

⁸ Acts 1913, ch. 330, secs. 1, 2. *State ex rel. Bateman v. Hart* (1914), 181 Ind. 592, 105 N. E. 149.

⁹ Acts 1933; Burns 36-1113.

¹⁰ Acts 1933; Burns 36-1110; Baldwin 8708.

FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the maintenance of county roads, bridges, and culverts;¹¹ divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;¹² fixes maximum limits of loads for roads, bridges, and culverts;¹³ establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calendar year;¹⁴ and attends meetings of the board of commissioners¹⁵ and sessions of the annual road school at Purdue University.¹⁶

The records of the county highway supervisor are maps of the highway system made by him,¹⁷ reports of work in progress,¹⁸ monthly reports to the board of commissioners of all work done, and an annual report of his work, with a complete statement of all expenditures under his supervision.¹⁹

329. COUNTY HIGHWAY SUPERINTENDENTS LEDGER OF APPROPRIATIONS AND DISBURSEMENTS, 1899-1910, 1914-. 17 vols. (1, 1-13, and three vols. not labeled). Title varies: Record of Gravel Road Reports, 1899-1910, 1 vol.; Expenditures for Free Gravel Roads, 1914, 1 vol.; Ledger of Expenditures for Free Gravel Road Repairs, 1915-17, 2 vols.; Highway Superintendents Ledger, 1918-36, 10 vols.

Record of appropriations and disbursements for maintenance of county highways, showing dates and amounts of appropriation and disbursement, names of payee and road, nature of disbursement, road district number, and appropriation balance. 1899-1910, 1914-36, arr. chron. by dates of disbursements;

¹¹ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹² Acts 1933; Burns 36-1109; Baldwin 8707.

¹³ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹⁴ Acts 1933; Burns 36-1103; Baldwin 8701.

This budget estimate is under the control of the board of commissioners and may be changed at any time by that board. *Bateman v. State* (1938), 214 Ind.138, 14 N. E. (2d) 1007.

¹⁵ Acts 1933; Burns 36-1104; Baldwin 8702.

¹⁶ Acts 1933; Burns 36-1110; Baldwin 8708.

¹⁷ Acts 1933; Burns 36-1109; Baldwin 8707.

¹⁸ Acts 1933; Burns 36-1106; Baldwin 8704.

¹⁹ Acts 1933; Burns 36-1104; Baldwin 8702.

1937-, arr. num. by road district nos., thereunder chron. by dates of disbursements. 1899-1910, index alph. by names of roads; 1914-, no index. Hdw. 400 pp. 18 x 12 x 3. 12 vols., 1899-1910, 1914-26, bsmt. stor. rm.; 5 vols., 1927-, hwy. sup. off.

XXVII. COUNTY AGRICULTURAL AGENT

LEGAL STATUS

The office of county agricultural agent was established in Jay County in 1918 under the authority of an act of 1913, and was reestablished and made mandatory by an act of 1937. The county agricultural agent is appointed for a 1-year term by the director of agricultural extension service of Purdue University, with the approval of the county agricultural agent board (a state board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. Before 1937 the county agricultural agent was appointed annually by Purdue University (except that reappointments after 1923 could be made for 2-year terms), subject to the approval of the state and county boards of education. The county council is required to appropriate \$1,000 annually for the expenses of his office. The act of 1937 provides that the county agricultural agent is to receive through Purdue University an annual salary of not less than \$2,000 (to be paid from a certain state fund provided for in that act), and that the county agricultural agent board must "make a distribution of state funds to the several counties, on a graduated scale, according to the qualifications of the county agricultural agent employed therein and the needs of the county."¹

¹ Acts 1913, ch. 24, sec. 12. Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457. *Opinions of the Attorney General of Indiana, 1937*, pp. 144, 561. *Seventh Annual Report, Purdue University, Department of Agricultural Extension, 1918*, p. 5. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

The appropriation act of 1939 appropriated \$165,600 per year for operating expenses of the county agricultural agent board from July 1, 1939 through June 30, 1941. Acts 1939, ch. 47, sec. 2, p. 275.

Under the law in force in 1931 the state's contribution was not available in absence of appropriation by the county council. *Opinions of the Attorney General of Indiana, 1931*, p. 826.

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the state had its agricultural society.² The board of commissioners may authorize the payment of hall rents, printing, advertising, prizes for contests, and other local expenses of a county farmers' institute.³ The county council and board of commissioners may appropriate \$200 annually for a corn growers' association or horticultural society if there is no agricultural fair or association in active operation in the county.⁴

FUNCTIONS AND RECORDS

The agricultural agent, under the supervision of Purdue University, cooperates with farmers' institutes, farmers' clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys' and girls' clubs and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendent of schools and the teachers of the county in giving practical education in agriculture and domestic science.⁵

Jay County has a home demonstration agent to develop extension programs for the improvement and advancement of agriculture, home economics, and rural life, in harmony with federal and state laws and in close cooperation with the work of the county agricultural agent. The agricultural extension division of Purdue University selects the home

The county could accept funds from the local farm bureau to pay for the expenses of the office of county agricultural agent. *Ibid.*

² Acts 1828-29, ch. 4, secs. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch. 2. William Carroll Latta, *Outline History of Indiana Agriculture* (Lafayette, Indiana, 1933), 271-274.

An act of 1907 provided for the payment of \$100 annually by the county to promote the extension of farmers' institute work. Acts 1907, ch. 117, secs. 1, 2 (repealed by Acts 1911, ch. 54, sec. 6).

³ Acts 1911; Burns 28-5625; Baldwin 3610.

⁴ Acts 1917, 1933; Burns 15-319; Baldwin 3544.

⁵ Acts 1913, 1923, 1927, 1937; Burns, 1939 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

demonstration agent and supervises her work. She must be unmarried, a graduate of a recognized school of home economics, and have some practical experience in teaching. Her salary is paid by Purdue University from federal land grant college funds. Her office expenses are paid from funds appropriated by the county council. Her term of office is indefinite. She directs all home economic extension work, both adult and junior, including girls' 4-H clubs, and cooperates with the county schools.⁶

The records of agricultural agent and home demonstration agent consist of reports to Purdue University concerning their activities, compiled under the direction of the university.⁷

330. [ANNUAL NARRATIVE REPORT], 1921-. 1 f. d.

Agricultural agents' annual narrative report to the agricultural extension bureau of Purdue University, showing date of report; names of agent and county; number of farm visits; nature and number of projects; activities on grain, fruit, and vegetable growing; cattle, sheep, swine, and horse raising; farm management; and marketing of crops. Arr. chron. by dates of reports. No index. Typed. 12 x 14 x 18. Agr. agt. off.

331. [4-H ENROLLMENT CARDS], 1936-. 1 f. b.

Enrollment cards of 4-H club members, showing name, age, and address of member; and summary of activities. Arr. alph. by names of members. No index. Hdw. 6 x 8 x 14. Agr. agt. off.

XXVIII. COMMISSION OF PUBLIC RECORDS

LEGAL STATUS

The commission of public records of Jay County exists under the mandatory provisions of an act of 1939. The commission consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The clerk of the circuit court is secretary, and

⁶ U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1931; Burns 28-5627; Baldwin 6475. Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

⁷ Interview of December 1, 1939 with Floyd I. McMurray, state superintendent of public instruction.

another member (selected by the commission) serves as chairman.¹

The members of the commission serve without compensation and receive no reimbursement for any expenses.²

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.³ An act of 1925 provided that any public official, at his discretion, may turn over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office;⁴ and an amendatory act of 1937 added a provision that the director of the state library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the state archives.⁵ An act of 1935 created within the executive department of the state a "commission on public records," consisting of the governor, the secretary of state, the state examiner, the director of the state library, and the director of the historical bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except for the provisions relative to ex officio members of the commission.⁶ These laws reflect the past and present attitudes of the general assembly toward the preservation of public records.

FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: (a) Those having no official or historical value; (b) those of current official value; (c) those of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; and (d) those of purely historical value.⁷

¹ Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Circuit Court," "Board of Commissioners," "Auditor," and "Clerk of the Circuit Court."

² Acts 1939; Burns, 1939 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

³ Acts 1877; Burns 26-634; Baldwin 5339.

⁴ Acts 1925; Burns 63-830; Baldwin 10287.

⁵ Acts 1925, 1937; Burns, 1939 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶ Acts 1935; Burns, 1939 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

Opinions of the Attorney General of Indiana, 1939, p. 259.

⁷ Acts 1939; Burns, 1939 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

Records of class (a), occupying space to no purpose in the offices and storerooms of the county, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law prohibits their destruction or requires that they be kept beyond that period.⁸ Records of class (b) are to be "retained in the office where they are required to be filed."⁹

Records of classes (c) and (d) must be transferred to the state library 3 years after the date of the filing, unless they are then in frequent use by the officer in charge. In the event of such transfer, the records of class (c) will be added to the "archives" of the library, while those of class (d) will constitute a part of the "collection" of that institution.¹⁰

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.¹¹

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.¹²

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.¹³

⁸ Acts 1939; Burns, 1939 suppl., 49-3703, 49-3704; Baldwin, 1939 suppl., 5492-3, 5492-4.

⁹ Acts 1939; Burns, 1939 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

¹⁰ Acts 1939; Burns, 1939 suppl., 49-3704 to 49-3706; Baldwin, 1939 suppl., 5492-4 to 5492-6.

¹¹ Acts 1939; Burns, 1939 suppl., 49-3707; Baldwin, 1939 suppl., 5492-7.

¹² Acts 1939; Burns, 1939 suppl., 49-3708; Baldwin, 1939 suppl., 5492-8.

¹³ Acts 1939; Burns, 1939 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.

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